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WORKLOADS IN THE DEPARTMENT OF VETERANS BENEFITS AND THE BOARD OF VETERANS APPEALS

HEARING

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION, INSURANCE, AND MEMORIAL AFFAIRS

OF THE

COMMITTEE ON VETERANS' AFFAIRS HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

MAY 7, 1980

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WORKLOADS IN DEPARTMENT OF VETERANS BENEFITS AND THE BOARD OF VETERANS APPEALS

WEDNESDAY, MAY 7, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION, PENSION,
INSURANCE AND MEMORIAL AFFAIRS,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 8:30 a.m., in room 334, Cannon House Office Building, Hon. G. V. (Sonny) Montgomery (chariman) presiding.

CHAIRMAN MONTGOMERY. The subcommittee will come to order.

Today we are conducting oversight hearings specifically dedicated toward a thorough review of the operations of the Department of Veterans Benefits and of the Board of Veterans Appeals as they relate to timeliness and quality of service to claimants for benefits.

Last year, we conducted similar hearings. We developed in reasonable detail the need for a more adequate and realistic staffing pattern for regional offices. For a brief moment, I thought we were going to get results from that. I see, however, that attempts to secure additional individuals in the line processing function has had some setbacks.

The last report we received representing the workload situation in DVB was dated April 7, 1980. It showed that there were 154,992 pieces of active mail pending and 25,260 pieces of search mail over 5-days old. In the Adjudication Division, there were 246,810 total cases pending.

As of the end of March of this year, total staff in DVB field stations was 16,380. Last year the number was 17,113 and the year before that it was 18,094.

We have had reports from service organization representatives from all around the country reflecting a great variation in the pending workloads from station to station and from area to area.

We continue to have a substantial number of complaints from veterans and survivors of delays encountered in all phases of the appellate process. It seems to be taking an inordinate period of time for remand decisions requesting additional development or examination to be issued followed by another extended wait for the development of the local decision and the final appeal when the local decision does not resolve the issues.

The President's budget submitted in January took another large bite out of the funds for technical and clerical personnel required to

adjudicate claims. The subsequent March reevaluation resulted in further reductions.

The appeals agency also has been subjected to reductions in resources. It would appear that most recently, in the President's reconsideration request, there will be losses in addition to the January cuts. It was already expected that the average overall processing time required for determining appeals would increase and it now must be assumed that additional days will be added to the process.

Last year, we were concerned about a substantial waste of resources occasioned by the necessity to spend large amounts of overtime to cope with out-of-hand workload situations.

I am advised this has not been continuing this year and that attempts have been made to supply additional full-time people by reallocating other budget resources. I would like some detailed explanation in this area.

We were very concerned by the adverse impact on service to veterans that resulted from delayed and incomplete installation of the new Target system to provide computer assistance in the adjudicative function. My colleague, Mr. Motti, chairman of the Subcommittee on Special Investigations, has been giving specific attention to this area. I would like, however, for the Veterans' Administration today to address some attention to just where you stand on installation of the full benefits anticipated from phase II of the Target system. I would like also to know what your more recent experience has been with the so-called downtime problem.

I understand this week that you are disconnecting the computer which you have been using for cycle processing and will go to new equipment. I have been told that you plan to reduce the number of cycles monthly from eight to six. Please let me have, as the VA witness presents testimony, information in this regard.

What adverse impact on service do you anticipate from this reduction in the number of cycles regularly provided monthly? Are you reasonably sure that this additional stressing of the system will not further delay installation of needed phase II features of the system?

We are interested always in hearing from the users. The veterans organizations have been advised of our interest in getting an update on the quality and timeliness of claims processing. We are looking forward to hearing from each of these witnesses today.

We will hear the VA witnesses today from the Department of Veterans Benefits and from the Board of Veterans Appeals. We will hear also from veterans organizations trying to help veterans and survivors push claims through with understaffed offices.

Mr. Wylie who is my colleague, the ranking minority Member, has a statement which I would like to submit for the record at this time.

STATEMENT OF HON. CHALMERS P. WYLIE

Mr. WYLIE. Thank you, Mr. Chairman.

I would like to commend you for holding these hearings, Mr. Chairman. This isn't a topic that generates a lot of media excitement, but it is an area that our committee has a duty to examine. We are all aware that the timing process for having claims examined in the Veterans' Administration has in many cases increased dramatically over the past few years, particularly in the Board of Veterans Appeals. What we have not determined, at least to my satisfaction, is what the causes of these increased delays actually are.

How much of the delays can be attributed to bureaucratic inattention; how much to the increase in casework; how much to growing complexity in veterans law itself; and how much to budgetary constraints that leave our Veterans' Administration employees with more cases, and fewer people to examine and process?

I look forward to going over the results of today's hearing with an eye to discovering the answers to these and other questions. Thank you.

Mr. MONTGOMERY. I would like to welcome our good friend from the Veterans' Administration, Ms. Dorothy Starbuck, who is the Chief Benefits Director and Mr. Sydney Shuman, Chairman of the Board of Veterans Appeals. Ms. Starbuck, we would like you to introduce the other members of the panel. You can handle your testimony by summary or in any manner you would like to proceed.

[Written statement follows:]

PREPARED STATEMENT OF DOROTHY L. STARBUCK, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to discuss the workloads of the Department of Veterans Benefits.

You specifically asked that issues be addressed covering the quality and timeliness of claims processing, the effects to date of budgetary limitations as well as the expected effects of the more recent resource curtailments, and the continuing effects of not having available the full Phase II function of the Target System.

QUALITY AND TIMELINESS OF CLAIMS PROCESSING

The Department has used statistical quality control (SQC) and timeliness measurement techniques since the 1960's to obtain at minimum cost information needed to control and improve the quality and timeliness of services to the public. Our quality control is related to key characteristics of performance which can be measured; primarily accuracy and compliance, and timeliness. They have acceptable and unacceptable levels, as determined by management. The acceptable levels represent goals and standards to be met.

Three significant factors are built into our procedures:

Quality and timeliness indicators are used—an information system.

There is feedback of information from the indicators to production—a communications system.

Action is taken by local and Central Office management to reach and maintain acceptable quality and timeliness levels—an action system.

The quality control system for claims processing in our Adjudication division in regional offices includes a mechanical random selection procedure based on digits of file numbers for cases on which current action has been completed. As a part of the ongoing work process, separate samples of cases are selected for Rating and Authorization actions.

First level supervisors perform the initial quality reviews of cases selected, which total about 3,000 Rating and 4,800 Authorization actions monthly on a national basis. Ongoing quality levels reported by first level supervisors are validated by reviews at higher management levels locally and in Central Office. The major objective of these reviews is to identify the causes of quality defects which can be eliminated for long-term quality improvement.

Quality defects in claims adjudication are classified as substantive errors, judgment deficiencies, and procedural discrepancies. Generally, a substantive error connotes a deficiency in accuracy or compliance that results in improper payments of benefits, granting non-authorized rights, or denying rights covered by law. A judgment deficiency is an action, or failure to take an action, which is not so erroneous as to be considered a substantive error, but is reflective of judgmental deficiency in application of laws and regulations. A procedural discrepancy connotes non-compliance with mandatory requirements that do not affect benefit or entitlement rights.

Information on qualitative performance at individual regional offices and nationwide is summarized on a monthly and 12-month cumulative basis in VA's Automated Management Information System (AMIS). These data permit an overview of significant trends and serve to identify patterns of error by the entire workforce.

Quality measurements and standards for claims adjudication are expressed as the "number of errors per 100 work units." Qualitative performance is considered satisfactory or better depending on whether it meets these minimum acceptable levels or the goal levels for Rating and C&P Authorization actions:

	Number of errors per 100 cases		
	Substantive errors	Judgment deficiencies	Procedural discrepancies
Rating actions:			
Goal level	1.5	1.5	2.0
Minimum acceptable level	4.0	3.0	6.0
C. & P. authorization actions:			
Goal level	1.0	1.0	1.5
Minimum acceptable level	3.0	3.0	3.5

The quality of Rating actions nationally over the past two years has been slightly better than the goal performance level for both substantive errors and judgment deficiencies. The minimum acceptable level has been met for procedural discrepancies, but goal level performance has not been achieved.

The quality of C&P Authorization actions nationally over the past two years has exceeded the minimum acceptable level for both substantive errors and judgment deficiences, but has not achieved the goal level of performance. The minimum acceptable level has not been met for procedural discrepancies.

A computer analysis of overall award processing timeliness is generated quarterly by the Hines Data Processing Center (COIN CP–6 report). This report measures timeliness at individual field stations and nationwide for initial claims in the C&P categories of Disability Compensation, Death Compensation and DIC, Disability Pension, and Death Pension. The report shows the percentage of claims processed in measured categories of 30 days or less, 60 days or less, 90 days or less, and 120 days or less. Additionally, it shows the average elapsed processing days and the percentage of cases not processed within 120 days. Used in conjunction with other quality and timeliness data, this report is helpful for analysis of service to claimants.

Overall award processing timeliness, as reflected by these quarterly reports, has deteriorated over the past two years. Between the quarterly periods ended March 31, 1978 and March 31, 1980, the average elapsed processing days of initial claims increased for:

Disability Compensation from 110 to 122 days (+11 percent),
Death Compensation/DIC from 68 to 83 days (+22 percent),
Disability Pension from 93 to 105 days (+13 percent),
Death Pension from 55 to 73 days (+33 percent).

A total national workload of 200,000 to 225,000 compensation, pension, and education cases is considered as being in the normal range. As of April 2, 1979, there were 514,853 unworked compensation, pension and education cases in our field stations. The large increase over the norm at that time was directly attributable to the filing of elections of Improved Pension benefits under Public Law 95–588. Due to the continuing loss of employees, the workload levels have not returned to the normal range and as of March 31, 1980 there were 254,117 unworked cases. This workload situation contributed to the deterioration in overall award processing timeliness for initial claims, and has affected quality levels adversely in some areas.

The Department of Veterans Benefits maintains data on processing timeliness for initial appellate issues. When a veteran advises us that he/she does not agree with our decision we treat it as a Notice of Disagreement. Under Title 38 USC we are mandated to furnish the claimant a full explanation as to the facts and rationale of our decision. We identify this action as a Statement of the Case.

Our latest data reveals that cumulatively for fiscal year 1980 (3–31–80) we are providing Statements of the Case within 30 days for 44.3 percent of all Notices of Disagreement (41,043) received. We complete 69.1 percent within 60 days; 80.9 percent within 90 days and 95.2 percent within 180 days. The remainder usually require extensive development.

EFFECTS OF BUDGETARY AND RESOURCE LIMITATIONS

Proceeding to a discussion of the effects of budgetary and resource limitations, it is apparent that staffing reductions (17,216 total DVB employees EOM

March 1980; 18,742 EOM March 1978) coupled with heavy workloads, have been a primary cause for increases in pending workloads and the deterioration in timeliness we have just discussed. The constraints inherent in minimal staffing for normal workloads have the greatest effect when legislative changes impose even heavier workloads. In essence, management flexibility is reduced to using overtime, which was the case in fiscal year 1979 when overtime cost DVB $4,348,018. Timeliness deterioration can be restrained by this means, but the effect is limited and cannot be sustained for an extended period of time. We hope for improvements in processing timeliness as Phase II of Target becomes available to more field stations but we are dependent on retaining at least current staffing levels to accomplish desired improvements.

Adjudication

As of March 31, 1980, DVB had 5,348 full-time employees in Adjudication Divisions nationwide, a 5.6 percent decrease from the 5,681 available on March 31, 1979, and 10.1 percent decrease from the 5,945 available on March 31, 1978. We do not, however, expect compensation, pension and education claims processing to be further affected by the most recent resource curtailments to the fiscal year 1981 budget. The recent limitations to the fiscal year 1981 budget will have the most effect on Counseling and Rehabilitation, and Veterans Assistance activities.

Counseling and rehabilitation

It has now become necessary to eliminate funding of our 208 contract guidance centers. These centers provided vocational-educational counseling for some 46,000 veterans and other VA eligible dependents in fiscal year 1979, and were budgeted for 62,000 cases at a cost of $6.2 million in fiscal year 1981. It is possible that some field stations will experience public relations problems as contractors, many of whom have provided service over the last 15 years or longer, are informed that funding will not extend beyond September 30, 1980. We foresee that veterans may raise objections if they have to travel greater distances to avail themselves of VA's career counseling assistance. To compensate for this, realignment and further decentralization of Counseling and Rehabilitation staff will occur to make counselling reasonably available to veterans in areas previously serviced by guidance centers. For current VA staff to handle the overall counseling workload, steps are being taken to remove the requirement for counseling in cases of unsatisfactory progress and second change of program, thus reducing the caseload to those beneficiaries requesting counseling and those applying for vocational rehabilitation.

The elimination of funds for contract guidance centers has implications for our plan to expand the VA's rehabilitation effort into a comprehensive program which will assist severely disabled veterans in obtaining suitable jobs, rather than limit our function to restoring employability. Although the fiscal year 1981 budget has 55 new positions for implementation of the new concept of total rehabilitation—to include social, physchological and vocational assistance—the effect of terminating guidance center contracts will be to increase the demands for overall VA in-house counseling. The expected consequence is decreased availability of counseling and rehabilitation resources to accomplish the planned improvements in rehabilitation of the service-connected disabled veteran.

State approval agencies

About $9.0 million has been cut from monies to be authorized for the State Approving Agencies. This has provoked a significant number of complaints from state employees at all levels particularly with regard to unemployment. We do not know what portion of the approximately 145 state staff now involved with OJT approval will find other assignments. The cut has some impact as well on the funding of IHL and NCD approval activity. We can expect a corresponding reduction in the supervisory visits which the state will be able to perform in this area and some delay in completion of all approval-related actions.

Veterans assistance

There will also be reductions in the number of Veterans Services employees with assignments away from regional offices. Originally 1,327 Vet Reps provided personal service to students at almost 3,300 educational institutions on a full-time or regularly scheduled basis. In time, after training, Vet Reps began to perform other duties such as visits to incarcerated veterans, field examinations, compliance surveys and liaison visits, assisting at VA medical centers and other outbased locations. At the end of fiscal year 1979, there were 296 Vet Reps.

Veterans Services' requirements have been decreased by 150 Vet Reps in average employment since the President's 1981 budget was submitted. As a result

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of the Vet Rep reductions, there will be a significant decrease in interviews (down 17 percent) and minor decreases in field examinations, compliance surveys and liaison actions. Travel restrictions will decrease supervisory visits to outbased locations and necessitate fewer field examinations, compliance surveys, liaison visits and outreach to the incarcerated and elderly.

Loan guaranty

On the brighter side, we have seen some improvement in Loan Guaranty workloads since last year but this is attributable to the unforeseen severity of the decline in the number of appraisal requests (down 18 percent to 248,500 for the same 6 month period in fiscal year 1979) and GI loan applications (down 16.5 percent to 167,650) which reflects current economic conditions. The result has been manageable workloads which have permitted the field stations to meet the established time standards of 85 percent of Certificates of Reasonable Value issued within 15 days of VA's receipt of the request for appraisal, and 85 percent of prior approval loan commitments issued within 8 calendar days. The number of GI default claims filed in the first half of fiscal year 1980 decreased 17 percent from the number filed in the first half of fiscal year 1979. The fact that claims filed have decreased while the number of defaults were increasing almost 8 percent, reflects VA's emphasis on supplemental servicing efforts and an increased capability of field stations to shift Loan Guaranty manpower resources to this effort.

In the Property Management operation, our inventory of properties on hand was reduced from 11,106 at the end of March 1979 to 9,003 at the end of March 1980, or 2,103 more properties disposed of in the intervening period than were acquired by VA. This is a result of using available personnel in an intensive effort to dispose of our properties in a favorable market.

Insurance

Due to the advancing ages of our policyholders, the number of disability claims and death claims is increasing. In fiscal year 1976 we processed 23,199 disability claims with 80 employees. During fiscal year 1980 we expect to process 33,300 disability claims with only 70 employees. In Death Claims the workload has continually increased while the employment levels have decreased. During fiscal year 1976 we processed 69,959 death awards with 79 employees. During fiscal year 1980 we will process 76,400 death awards with only 70 employees.

Much of the increased workload has been absorbed by increasing productivity. However, as the volume of work has continued to increase and our employment levels have decreased, the percentage of cases meeting the established timeliness standards has decreased. At this point, even if our employment levels remain constant, and assuming a reasonable increase in productivity, timeliness of processing will deteriorate because of the increasing workloads in these areas.

The budgetary limitations will prevent us from processing our increasing workloads on a timely basis. They are currently preventing us from fulfilling our responsibilities to our policyholders in the area of consumer information. Approximately 1,150,000 of our policyholders have not updated their beneficiary designations since prior to 1958. We should be conducting a mass mailing to these insureds informing them of this fact and requesting that they submit a current beneficiary designation. Under the current manpower restrictions, we are not in a position to undertake such a project.

Our experience has shown that many of our insureds are not aware of the disability benefits available under their policies. We began a mass mailing in June 1979 to inform them of these benefits. The mailing was designed to be completed within four years. Due to manpower limitations, we were forced to reduce the mailing volume by 50 percent in February 1980. At the current volume, the mailing will require another six to seven years to complete. In the meantime, many of our policyholders will not be taking advantage of benefits that they have paid for in their premium payments.

IMPLEMENTATION OF PHASE II OF TARGET

I would like now to discuss Phase II of Target. Twenty-two regional offices are now into Phase II processing. When all have completed training and are into full production, 50 percent of the Compensation, Pension and Education workload will be processed through the Target System.

We expect the remainder of our regional offices to be fully productive in Phase II by the end of this fiscal year, Until that time, those offices that are not into

Phase II will continue to experience a longer time for award processing, a longer turn around time for system rejected transactions, and will not have the up-front capability to edit input and correct errors through the terminals at the regional office prior to submission to the data processing center.

Further improvements in performance should result when those functions not now available as part of Phase II processing are implemented. Each of the following additions to the award processing portion of the system will reduce the number of operations which now must be performed.

Minimum input processing for Chapters 34/35 will allow the operator to enter only the necessary data to produce original, reentrance, and amended awards. This includes the elibibility, award, and dependency screens.

Chapter 32 processing will fully automate Chapter 32 Education award processing for a rapidly growing system that is now operated manually. The installation of this system will include inquiry, claims and award processing.

Chapter 31 processing will provide automatic inquiry, claims and award processing for Chapter 31. The conversion of this semi-automated batch system to the on-line environment will mean that all Education award processing can be done via the terminal system.

Award validation will provide a mini-audit of the input award data against existing master record or superseding input support data.

C&P award generation will permit minimum input to generate supplemental awards and income related original awards. This installation will simplify the regional office processing of supplemental awards.

Each of these improvements will increase the capabilities of the regional offices to process veterans' and beneficiaries' claims in a shorter period of time and with decreasing error rate; however, we are unable at this time to predict exactly how these improvements will affect our personnel needs in the regional offices.

Mr. Chairman, this concludes my prepared remarks. I and the other VA witnesses will be pleased to answer any of the Committee's questions.

STATEMENT OF DOROTHY STARBUCK, CHIEF BENEFITS DIRECTOR, VETERANS' ADMINISTRATION

Ms. STARBUCK. Thank you very much, Mr. Chairman. Good morning. I would like to introduce Mr. Jack Thompson from the Office of the General Counsel and Mr. Jim Derhaag from the office of Sydney Shuman. On my left is Mr. Bill Martin, director of the Office of Data Management and Telecommunications.

With your permission, Mr. Chairman, I would like to summarize my statement and then submit it for the record.

You asked today, Mr. Chairman, that we speak to the quality and timeliness of claims processing in the regional offices, the effects of budget limitations which have been imposed on the Department, also the effects of the recent curtailment in resources available to the Department for fiscal year 1981, and finally, the effects of not having full phase II function available to all of our regional offices.

In the Department of Veterans Benefits, we have traditionally, through a system of quality control and review, measured the quality and the timeliness of our work. We set minimum levels of accomplishment and goals for accomplishment for each of our programs.

In testing the quality and the timeliness, we select sample sizes at random from each measured function. For example, using separate samples in the Adjudication Division for cases completed by rating boards and authorization, the first-line supervisors in our regional offices review approximately 3,000 rating cases a month and 4,800 authorization actions. These reviews by first-line supervisors are later validated by higher management review and eventually worked into a smaller sample size at the Central Office level for review.

In the adjudication operation, our quality defects are identified as substantive, judgmental, and procedural. The substantive defect, of course, would be one in which an error is made with respect to the grant of benefits to which a person is not entitled or a failure to grant full benefits.

Judgment errors are less serious. They do not involve a violation of payment propriety. Procedural errors, of course, are those which show that an employee is not following precisely the rules of the game.

In our measurements we find that quality has exceeded our minimum acceptable level in both the substantive and judgment areas. This reflects precise attention to the requirements in this area. We have not met the minimum acceptable level for procedural discrepancies in authorization actions. This requires constant supervisory attention, training, and retraining.

Our timeliness in claims processing is provided to Central Office and to field stations in a report which we call COIN CP–6. We measure in that the disability compensation timeliness, death compensation and DIC, disability pension and death pension. We measure the percentage of cases processed in 30 days or less, 60 days or less, 90 days or less, and 120 days or less. This report shows us average processing time and the percent of cases in which it took the regional offices over 120 days to process.

Over the past 2 years, we have experienced some slippage in the timeliness of our operations. For example, in March 1978, our average processing time for disability compensation was 110 days. This year, at the end of March, it was 122 days, which means a slippage of about 11 percent. Death pension has slipped the most seriously. In March 1978, it was 55; March of this year, 73—an increase of 33 percent. This is something that regional office directors and adjudication officers attend to, and where slippages are serious, they are taking necessary supervisory action.

What we would hope to look at as a normal workload range in regional offices across the country is a volume of about 200,000 to 225,000 cases on the floor to be worked. In April of last year we had 514,800 cases on the floor. This was at that time an impossible workload to handle. It was caused by the two legislative changes that took place that year; one, 30 and 40 percent compensation cases began to receive payment for dependents; and two, Public Law 95–588, improved pension legislation, caused a large increase in elections to that benefit.

Fortunately, this year at the end of March, we were down to 254,000 cases and as of this past Friday, we were down to 226,000. So the picture is improving. We are getting very close to what we would consider a normal workable workload in the regional office. We will, of course, have fluctuations in the number of cases on hand as our stations continue to train for phase II. When adjudicators and other personnel are taken out of productive work to train in phase II, of course, work backs up.

As you mentioned, Mr. Chairman, the budgetary and resource limitations do impact on our capability to timely process our workloads. At the end of March 1980, or this year, our staffing was 17,216 in the department. This was 1,526 below March 1978. Through the year 1979, we survived the workload by expending in excess of $4

million in overtime. Much of that was related to the two pieces of legislation which I mentioned. Some of it related to the unavailability of our Target system.

The current resource curtailment, the exercise through which we have just gone, will have rather wide-spread impact in our regional offices. In the effort to meet the targets that were given to the department, it was necessary that we tap the fund which we pay for guidance center counseling of students going to school under the GI Bill. We will, by discontinuing payments to contractors, eliminate a total of 208 contracts. These contractors counseled 46,000 veterans and dependents in fiscal year 1979. We had targeted them in 1981 to 62,000 cases and a total fund of $6.2 million.

We will, of course, meet contractor resistance in this. We will meet some veteran resistance. We are going to have to look at the feasibility and necessity for out-stationing counselors in order to preclude a population of veterans having to travel long distances to regional offices.

We are looking very seriously at the requirements for the counseling of unsatisfactory progress veterans and those who have a second change of program. We have identified in the 1981 budget an increase of 55 positions for the counseling and rehabilitation program. These positions were really identified to take care of the pending legislation now if this is passed, but if we have to throw into the regional offices a total of 46 or 56 or 62,000 cases, that will impact on our capability to continue to improve in our program.

We also in the budget curtailment reduced the State Approval Agency contract money by $9 million. There have been many complaints received from the States because of this curtailment. It represents a sudden unemployment picture for the States. And also, it reduces their capability to provide both oversight to the schools and approval actions.

We are now working with the State Approval Agency contract committee, and we are looking into the possibility of our own employees, reduced in number though they may be, of taking on the task of on-the-job training and apprenticeship approvals.

One of the third actions we took in the current curtailment was to reduce the number of veterans' representatives on campus in the 1981 fiscal year. We planned a contingent of 197 full-time equivalent in vet reps on campus. We have reduced that figure by 150. These veterans representatives on campus have performed additional duties for us such as compliance surveys, field examinations, visits to prisons, outreach programs, and with having to bring these individuals into the regional offices, off the campuses, we are impacting the capability of the regional offices to do this traveling.

Our loan guaranty program is probably in better shape today than it has been for some time, but I think we can thank only the economy of the country for that. Our appraisals are down. Loan applications are down. Our loan guaranty claims are down, but our defaults are up about 8 percent. The difference between the loan defaults being up and our claims down indicates that we are being able to divert people in the loan guaranty program from the front end of the program into loan servicing and into some of our property management activities.

The third program that is being impacted adversely, of course, is the insurance activity. There have been constant reductions in the personnel available to the insurance activity, and illustrative of that is the processing of both disability claims which are drastically increasing as our death claims.

In 1976, for example, the insurance activity handled in excess of 23,000 disability claims with 80 persons. This year we expect that they will handle 33,000 disability claims with 10 less people.

In 1976, they handled almost 70,000 death claims with 79 personnel assigned. This year it is going to be up to 76,000 and they have 70 people available. Here is where again timeliness of processing applications suffers.

The budget limitations imposed in our insurance activity have precluded the beneficiary update program to about 1,150,000 insurers who have not updated beneficiary designations since 1957.

We had also begun a rather ambitious project of advising insurers of disability benefit information. We had hoped to have that program completed in 4 years, but because of budget limitations the program will continue but at a slower pace, and it will probably take about 7 years to complete.

We are moving ahead in the implementation of phase II of the Target system. We currently have 22 stations either fully or partially operational on the system. Eight of them are. They have completed training and are making full use of all the commands available to them. The 14 remaining stations in phase II are anywhere from 15 to 85 percent completed in their training, and we look for all of them to be fully operational by the end of June. We expect the balance of our regional offices to be on phase II by September 30. Those, of course, who are not on phase II continue to deal with slow turnaround time on awards processing and awards system rejects and do not have an upfront edit capability that improves the quality of work.

The system does not now do all that it can nor all that we want it to do. There are a number of improvements both in a testing phase and on the drawing board, and each of these is designed to increase the capabilities of our regional offices to process claims more quickly and with greater accuracy. We are quite enthusiastic about it. Those who have completed their training and are operational on the system are pleased with it and are doing well with it.

That, Mr. Chairman, concludes my statement. I am available for any questions that you may have.

Chairman MONTGOMERY. Ms. Starbuck, we might delay the questions and call on Mr. Shuman now and then we would have questions for both the witnesses. Mr. Shuman? Your written statement will appear at this point in the record.

[Statement follow:]

PREPARED STATEMENT OF SYDNEY J. SHUMAN, CHAIRMAN, BOARD OF VETERANS APPEALS, VETERANS ADMINISTRATION

Mr. Chairman and members of the subcommittee: Thank you for inviting me here today to discuss the workload of the Board of Veterans Appeals. The mission of the Board of Veterans Appeals has been described as follows: To equitably decide appeals under all laws administered by the Veterans Administration and

ensure that appellants are accorded due process of law; that they get compassionate, sensitive, responsive, and sympathetic consideration on their appeals; and they receive all benefits to which they and their dependents are entitled.

One of the Board's major objectives, and I might add the reason for my presence before the Committee, is the efficient processing of all appellate decisions before the Board. To attain this objective, processing time on appeals (response time) for the Board of Veterans Appeals must be held to a maximum of 180 days.

There has been a dramatic increase in the workload of the Board of Veterans Appeals over the past 5 years and I would like to discuss these changes and the parallel increase in average appeals processing time over this period.

WORKLOADS

	Fiscal year—					
	1975	1976	1977	1978	1979	1980 (estimate)
A. Appeals received	26,022	29,945	36,721	36,655	34,124	35,000
B. Decisions	25,027	28,482	33,296	35,634	34,972	34,000
Ending docket	4,893	[1] 6,544	11,470	12,491	11,643	12,700

[1] Does not add—transition quarter is not shown.

	Percent
C. Most frequent issues (fiscal year 1979):	
Service connection	39.9
Increased rating	25.5
Other compensation	10.3
Pension	7.5
DIC	5.9
Death pension	1.0
V.R. & E	2.9
Forfeiture	.2
Waivers	2.7
Hospitalization/OPT	1.5
Loan guaranty	.8
Insurance	.5
Character of discharge	.2
Reconsiderations (all issues)	.6
Miscellaneous	.5

As I have mentioned before, along with this increase in workload the average appeals processing time has also lengthened over the past 5 years.

AVERAGE APPEALS PROCESSING TIMES

[Calendar days]

	Fiscal year—				
	1975	1976	1977	1978	1979
Notice of disagreement to receipt at BVA	181	186	192	185	196
BVA receipt to BVA decision	69	74	102	122	127

A review of the Board's processing time for the 6-month period ending in March 1980 shows that the average time from date of receipt until the case is assigned to one of our staff attorneys is 68 days and from the date it is assigned to a staff attorney until it is dispatched from the Board an average of 54 days. There is no significant delay between the time a decision is signed and its actual dispatch. The bulk of the 68-day period is the time the case is with one of the accredited representatives who prepares the appellate argument on behalf of the appellant. Although this time must be charged to the Board, the Board cannot control the time the case is with a service organization or awaiting review by an attorney or agent before its presentation to the Section. Eighty-two percent of the appeals are handled by these service organizations.

The actual time spent on individual cases varies widely. This depends on many things, including whether or not the appellant has a representative, whether or not he/she has a formal hearing, the complexity of the case, and whether or not there is correspondence or other inquiries to answer. The Board has set guidelines in this area. Each Board Section has a goal of 40 decisions per week. This gives a Member an average of 1 hour to review each case. In order for a staff attorney to produce at a level of 100 percent productivity he/she must complete seven to eight cases a week. These work rate standards have been in effect since 1958 and in Fiscal Year 1979, the average time value for a decision by a staff attorney was 5.4 hours.

The actual content of the appellate decision is a significant factor in this discussion. Prior to 1976 many single issue cases were prepared in a "short form" format. This type of decision often dispensed with a recitation of the evidence and summarization of the applicable laws and regulations. Reference was usually made to the Statement of the Case furnished the appellant after the Notice of Disagreement was filed. Although this measure met with some success, there were some significant disadvantages to it. Too much reliance had to be placed on the Statement of Case and, although these statements met the requirements of the law and were sufficient to allow veterans to prepare appellate arguments, they could not give a complete recitation of all the pertinent facts and applicable law and regulations necessary for fully reasoned appellate decisions.

All decisions, including those in "short form" format, have contained a "Discussion and Evaluation." Although this section increases the length of the decision, it is necessary in order to answer contentions as well as complaints of the appellant and explain the Board's rationale for the decision. With the exception of "Findings of Fact" and "Conclusions of Law" we feel this is the most important part of the decision. The significance was further recognized when the Senate passed S. 330, 96th Congress, providing for judicial review of Board of Veterans Appeals' decisions. If enacted, a "Discussion and Evaluation" would be required in every decision. This provision is also included in H.R. 6181, 96th Congress, a bill identical to S. 330.

For many years the ratio of issues to an individual appeal ranged approximately 1.2 to 1.5. A short-term study conducted in 1978 revealed that this ratio had increased to approximately two issues per appeal.

Practical experience has shown that it takes a staff attorney longer to prepare a decision in which a personal hearing has been held, especially a Travel Board or Central Office hearing. A Travel Board hearing consists of three Board Members visiting field stations for the purpose of conducting hearings for appellants who are unable to come to Washington. Central Office hearings are personal appearances by appellants before a Section of the Board. In these appeals, veterans commonly bring out considerable detail, voice complaints or simply ask questions as to VA procedure or benefits, all of which must be noted and addressed in the decision. Thus, the recent increase in hearings impacts directly upon the preparation time of such decisions. The number of personal hearings before the Board has increased dramatically in the last 5 years.

	Fiscal year—					
	1975	1976	1977	1978	1979	Estimate 1980
Travel boards	328	429	466	505	484	500
Central office	540	712	1,022	947	1,037	1,400
Total	868	1,141	1,488	1,452	1,521	1,900

Because of appellants' interests in personal hearings, the Board has increased its travel program and its hearing docket at Central Office. Since 1975 the number of Travel Board trips has risen from nine to thirteen per year.

As of May 1977 the Board of Veterans Appeals, under the Freedom of Information Act, was required to index and make all decisions available to the public. Now that there is an index to BVA decisions, it is used by service organizations and student legal aid societies. As these cases are being cited in appellate arguments, BVA attorneys must research prior BVA decisions on the same issue in

order to prepare decisions consistent with past Board actions. Board of Veterans Appeals' decisions are not precedent as a matter of policy. However, it is mandatory that the Board be consistent in its treatment of similar issues in order to be fair to all appellants requesting review.

The combination of all factors cited above has brought an increase of about 40 percent in the average length of appellate decisions since April 1979.

An analysis of processing time would be incomplete without a discussion of BVA personnel. The Board of Veterans Appeals has 16 Board Sections. During the peak Vietnam-era years of 1972–1973 the Board of Veterans Appeals had 14 Sections. Following the dramatic drop in appeals in 1974, the Board cut back to 13 Sections in November 1974. Very shortly, by March 1975, there was a sharp upswing in appeals—due to the recession. The Board reactivated Section 14 in July 1975. The increases in appeals continued. The Board formed Section 15 in January 1977—and Section 16 in September 1977.

Each Section has three Members. Fifteen of the 16 Sections have two legal members and one medical member and the other one has three legal members. In addition, each Section has six or seven staff attorneys and a Section secretary. Additional support comes from the Board's Administrative Service. This element—now authorized 139 people—maintains the docket, schedules hearings, handles correspondence, and provides mail and record activities, secretarial service, and similar duties.

The Board's personnel strength has changed quite a bit over the past several years in an effort to react to the changes in receipts of appeals, which I have noted earlier. The average employment at the Board for the past 5 years shows as follows:

Fiscal year:	*Employment level*
1975	281
1976	280
1977	293
1978	333
1979	333
1980 (estimate)	336

We experience quite a bit of employee turnover here in Washington. This is not only in the lower pay-grade people, but Members too. There is a lot of interest in Administrative Law Judge positions on the part of attorneys and Board Members. Many have applied for these positions and in the last 5 years, five have left the Board to become Administrative Law Judges. Just last week another Board Member accepted such a position. During this same period 12 attorneys have transferred to the Office of General Counsel. Most of them were exceptional workers. This recent trend impacts specifically upon the GS 13–15 positions.

Two quality procedures are in effect at the Board which monitor the professional performance of the staff attorney and the overall quality of an appellate decision. Every 3 months the staff attorney is evaluated by the supervisory Chief Member who uses a form consisting of 20 factors designed to evaluate the quality of the attorney's performance. These factors cover such things as accuracy, knowledge of VA law, clairty of written expression, and other basic work characteristics. The extent to which work must be revised, the ability to handle complex matters, and contributions made to the Section are reviewed by the supervisor. In the case of our GS–14 staff attorneys, their ability to act in a judicial capacity is looked into since they are potential candidates for Board membership.

The other quality evaluation procedure is the random selection and review of approximately 10 percent of all decisions dispatched from the Board. These decisions are forwarded to a Quality Review Committee for a detailed critique. All parts of the decision are carefully scrutinized, such as the statement of contentions, discussion and evaluation, findings of facts, etc., to determine the accuracy and completeness of the decision. This review, conducted by the Deputy Vice Chairman without knowledge of the author or signatories of the decision (to insure objectivity in the assessment), is made in association with the claims folder. I feel that the Board's quality check insures a high standard of work and a well-reasoned appellate decision.

As you know, the federal budget-making process is deliberate and fairly drawn out. For example, we now are starting to work up our Fiscal Year 1982 budget, 18 months before the year starts. This lead time in the budget process makes it

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impossible for us to react immediately to change in workloads. Our workloads hit a low point about July 1974. By spring 1975 the sharp increase was underway. Our case receipts rose from 26,000 in 1975 to more than 36,600 in 1978. Our personnel strength at the Board of Veterans Appeals rose from 280 to 333 between 1976 and 1978 but lagged the work increase.

To support the President's 1981 budget reduction, the Board of Veterans Appeals was directed to reduce its payroll by 2 percent and all other costs by about 20 percent. This translates to $172,000 and $103,000, respectively. To meet the sizable cut in payroll, we will be forced to reduce the Board of Veterans Appeals from 16 to 15 Sections in October of 1980, a reduction of three Board Member positions. To have cut staff attorneys and support people would have required a cut of as many as seven people. Unfortunately, this will reduce our output of decisions by about 2,000 per year. If our appeals workload continues as expected, we will slip still farther behind. Following is the estimate we used with our 1981 budget revision:

	Fiscal year—			
	1980	1981	1982	1983
Beginning docket	11,643	12,700	15,700	18,700
Appeals received	35,057	35,000	35,000	34,000
Total workload	46,700	47,700	50,700	52,700
Appeals decided	34,000	32,000	32,000	32,000
Ending docket	12,700	15,700	18,700	20,000
Average response time (days)	136	179	213	236

Establishing a reasonable processing time and making an all-out effort to attain that goal are not simply exercises in good management or attempts to provide better service to appellants but rather are necessary requirements in order to guarantee that all appellants are afforded due process under the law. Speaking on the subject of due process, the Supreme Court has noted that:

"Prompt and adequate administrative review provides an opportunity for consideration and correction of errors made in initial eligibility determinations. Thus, the rapidity of administrative review is a significant factor in assessing the sufficiency of the entire process." *Fusari* v. *Steinberg*, 419 U.S. 379, 389 (1975).

The processing of appeals on a timely basis has been a commitment of the Board for many years. In the last several years the Social Security Administration has been required to explain and defend its processing time in the federal courts. The result was the setting down of strict processing time limitations on the Social Security Administration. The agency's arguments concerning increasing workload and manpower shortages were brushed aside. The second circuit of the U.S. Court of Appeals set a processing time of 120 days from the time of request for a hearing before an Administrative Law Judge until entry of a final decision. *White* v. *Mathews*, 559 F. 2d 852 (2d Cir. 1977). This roughly corresponds to the time of filing a Notice of Disagreement at the Veterans Administration until receipt of the appeal at the Board of Veterans Appeals. This same circuit court specified that, when a request for a hearing is made, a personal hearing must be held within 90 days. *Barnett* v. *Califano*, 580 F. 2d 28 (2d Cir. 1978). The sixth circuit, however, allowed the agency to exercise its rule-making power by formulating rules and regulations, and establishing reasonable time limits for conducting hearings. *Blankenship* v. *Secretary of HEW*, 587 F. 2d 329 (6th Cir. 1978). Recently, the Social Security Administration has issued proposed regulations on this subject in the Federal Register (45 Fed. Reg. 12837–44 (Feb. 27, 1980)).

In recent years, not only has the matter of processing time been of concern to the federal courts but so too have the nature and content of the administrative decision itself. To illustrate, the first circuit has held that the Secretary of HEW has an obligation to social security disability claimants to make full and detailed findings in support of his ultimate conclusion. *Small* v. *Califano*, 565 F. 2d 797 (1st Cir. 1977).

We are determined, however, not to permit our striving for improved timeliness to interfere with the reasoning and compassion with which we approach our responsibilities, and the informativeness of our written decisions.

STATEMENT OF SYDNEY J. SHUMAN, CHAIRMAN, BOARD OF VETERANS APPEALS, VETERANS' ADMINISTRATION

Mr. SHUMAN. Thank you, Mr. Chairman. We are pleased to be here this morning to discuss what is a timely subject.

There has been a dramatic increase in the workload of the Board over the past 5 years. I would like to discuss these changes and parallel them with the average appeals processing time in the same period.

In 1975, the Board received 26,000 appeals; in 1976, 29,900; 1977, 36,700; in 1978, 36,600. There was a dropoff in 1979 to 34,000 cases. We estimate that this year we will get about 35,000.

During the same period of time, the Board increased its productivity from 25,000 in 1975, to 34,900, just about 35,000, in 1979.

About 75 percent of the cases coming before the Board involve service connection, increased ratings, or other types of compensation. These are the more time-consuming cases. Now, the processing time in 1975, from notice of disagreement to receipt by the BVA, was 181 days and in 1979, it was 196 days. The time at the Board of Veterans Appeals rose from 69 days in 1975 to 127 days in 1979.

We just recently conducted a 6-month study on timeliness and—for a 6-month period ending in March 1980—the average time from date of receipt until the case was assigned to a staff attorney was 68 days. From the date it was assigned to a staff attorney until it was dispatched from the Board, it averaged 54 days.

Much of the delay in the initial stage takes place when a case is sent to one of the many service organizations representing claims before the Board. They, too, are overworked and they, too, have backlogs that must be worked off. This accounts for some of the 68-day period. We can't control that time.

The actual time an attorney spends on a case and a section spends reviewing a case takes longer in some cases, as you can well imagine, because of the complexity of the issues and the amount of correspondence or other inquiries that come in that we must answer.

We have guidelines as to productivity. There is a goal of 40 cases per week for each section of the Board which gives each Board member 1 hour to review a case. The staff attorney, in order to reach 100 percent productivity, has to complete 7 to 8 cases per week. We have work rate standards which have been in effect since 1958 and in fiscal year 1979, the average time value for a decision was 5.4 hours.

As I said, the content of a decision is significant as far as the time is concerned. There are many things which increase the length of a decision: The issues on appeal, a personal hearing—our personal hearings have doubled over the last several years, and the necessity to cite some cases—at least cases are now being cited because of our index system by some of the representatives and it is necessary for us to look to those cases in order to have some uniformity in BVA decisions.

Our discussions and evaluations of the evidence are longer because it is necessary to answer contentions. Overall I see about a 40-percent increase in the length of BVA decisions.

I would like to talk for a moment about BVA personnel. We presently are operating with 16 sections. During the peak Vietnam-era years of 1972 to 1973, the Board had 14 sections. Following the dramatic drop in appeals in 1974, the Board cut back to 13 sections in

November 1974. By March 1975, there was a sharp increase in appeals and the Board reactivated section 14 in July 1975. The increase in appeals received continued and the Board formed section 15 in January 1977, and section 16 in September 1977. Each section has three members. Fifteen of our sections have two legal members and one physician. The other section has three legal members. In each section there are six to seven staff attorneys and a section secretary. Additionally, we have an administrative element of some 139 people who do the various administrative chores necessary to process cases.

Our personnel has changed over the years and I would like briefly to cite a few figures. In 1975, the Board had 281 employees. In 1979, we had 333. One of our problems is the tremendous turnover we find here in the Washington area. There is a tremendous interest by our people in the administrative law judge positions. I think everybody wants to be a judge even if it has the word administrative preceding it. Our Board members, as well as some of our staff attorneys, have applied and we have lost five seasoned people to administrative law judge positions. Also, I guess there is magic to the term "general counsel" because we have lost 12 attorneys to that office. Some of our better attorneys with considerable experience have transferred there, an example of which is Jack Thompson sitting at the table.

We do have a quality control section which reviews 10 percent of the cases coming into the Board, both for procedural errors, substantive errors, as well as such things as quality of the writing ability. Each attorney's work is evaluated by the section assigned.

Now, Ms. Starbuck touched on the budgetary situation. I think one of our problems, and I guess it is a problem of everyone in Government, is that we are already working on the fiscal year 1982 budget, and there is no telling what the appeals load will be in 1982. This has always been a concern to us because we are generally behind the power curve as I demonstrated in some of the citations with the workload changing rapidly and we couldn't gear up to it in time.

Just to go over it a little bit, our workload hit a low point in July 1974, and by the spring of 1975, it was increasing. Case receipts rose to 36,600 in 1978; and the strength of the Board rose from 280 to 333 between 1976 and 1978, but it was behind the power curve.

The 1981 budget reduction will cause some problem. In order to meet the dollar figure, it was necessary for us to drop one Board section. It was easier, we felt, to cut off the three members—do away with three members and save the attorneys. We can reassign the attorneys to other sections. It looks like we will lose in the vicinity of 2,000 cases as a result of dropping one Board section.

We realize that it is necessary to have a reasonable time to process cases. The courts have been very active with social security as to what a reasonable time is, though we also realize that the decisions have to be complete, and hopefully the more time it takes us the better we can do our decisions.

Mr. Chairman, that completes my prepared statement.

Chairman MONTGOMERY. Thank you, Mr. Shuman.

Sam, do you want to start or do you want me to ask some questions first?

Mr. HALL. Go ahead. I want to ask them later.

Chairman MONTGOMERY. All right. I thank Mr. Hansen for being here this morning.

I guess that this question would go to both—it is really just to try to clear it up in my mind. Ms. Starbuck, you are being cut back in personnel because of budgetary restraints? Is that correct and has the workload decreased or increased?

Ms. STARBUCK. Yes, Mr. Chairman, we are being cut. As I mentioned, we had planned in 1981, under this latest constraint, to reduce 150 veterans representatives on campus. At the same time, we were required to reduce an additional 70 personnel. I proposed at that time that we consolidate the insurance activity at St. Paul with the insurance activity at Philadelphia and thereby save 70 full-time equivalent positions in 1981.

That recommendation made to the Administrator and then to OMB was an acceptable one, and we stayed with that recommendation until about 3 weeks ago when the prime interest rate went to 19 percent and the money market dried up. Over that weekend I did a lot of soul searching. Monday morning I went in and recommended to the Administrator that we not force the employees at St. Paul into a move situation which would require them to put their houses on a market where no money was available and to move them to Philadelphia where the interest rate then was at 14 percent and no money available to buy. It was on that basis that I made that recommendation to the Administrator and he accepted it. However, we knew that we were still committed to saving the 70 FTE. We will have to take that saving in 1981 spread across the entire spectrum of the regional offices. So that means 70 additional position reductions in 1981.

Chairman MONTGOMERY. Mr. Shuman?

Mr. SHUMAN. Yes, sir. We participated in the exercise of a 2-percent reduction in payroll and a 20-percent reduction in other costs. It translated to about $172,000 in payroll and $103,000 in other costs.

To meet the sizable cut in payroll, it was necessary to reduce high salaried people—three Board members—and that is what we elected to do. The cut is going to cost us, as I say, some reduction in output and some increase in the time a case remains before the Board.

Chairman MONTGOMERY. Well, that seems to be the big problem, also. The main problem appears to be the increase in time in handling these cases. Is that correct?

Mr. SHUMAN. That is correct.

Ms. STARBUCK. That is correct, sir.

Chairman MONTGOMERY. What can we do to speed up the time? I don't want to reflect on social security, but my colleagues will agree that in the past it seems that veterans claims have been handled more quickly than a permanent disability claim for social security. I hate to see us get delayed more. How can we help?

Ms. STARBUCK. Well, we are looking, Mr. Chairman. Basically, we are relying considerably on the Target system to be our biggest help. I think that in the further curtailment of 1981 outlays the Veterans' Administration, vis-a-vis the rest of the Federal Government, was treated fairly. We all realized that we needed to take our share of the cut and over a period of negotiation of about 2 weeks, we were reduced less than had initially been charged to the agency.

It is not easy to accept these cuts when we know what the end result is going to be. But I guess we are schooled and trained and almost conditioned to accept the challenges which these cuts represent and, wherever it is possible, to improve the way in which we do the jobs that we have to do to improve the timeliness. We will make that effort.

Chairman MONTGOMERY. You know, if we, who are especially interested in veterans programs, don't really speak up and make some tremendous arguments, I am afraid that OMB and the administration will continue to cut personnel out of the Veterans' Administration. We felt that there was a cut across the board and I remember that some agencies—either HUD or HEW—had an increase in employees.

I, for one, am going to continue to holler loud and clear that, as you pointed out this morning, if we cut back on personnel and funding, that adds to the processing time of the claims in cases that you handle.

Have any supplemental budget recommendations been made or sent up by OMB to help out on these problems that you have mentioned this morning?

Ms. STARBUCK. No, sir.

Mr. SHUMAN. Not to my knowledge.

Ms. STARBUCK. In the current climate, Mr. Chairman, with respect to the balancing of the budget, I feel that that would be an unacceptable proposal on our part.

Chairman MONTGOMERY. Well, everybody at home wants to balance the budget but not hurt their favorite programs. I feel the same way. This is my favorite program. Let's cut the others.

Ms. STARBUCK. Mine, too, Mr. Chairman. [Laughter.]

Mr. HANSEN. Would the chairman yield?

Chairman MONTGOMERY. Yes.

Mr. HANSEN. I share the chairman's concern about being sure that we keep the veterans programs strong and viable. It is that ongoing effort that we contend with all the time when attempts are made to put veterans programs under HEW—what used to be HEW—but under the areas where it would be considered welfare instead of earned benefits.

I think that if we don't maintain a decent level, we will feed the fires and there will be a clamor to move veterans programs over to an area where they would get more benefits. I think that we have to make sure that our programs are strong, and I am glad that the chairman brought that up.

Chairman MONTGOMERY. Thank you. Mr. Hall?

Mr. HALL. Ms. Starbuck, I would like to refer to pages 8 and 9 of your testimony. You indicate that during 1980 you will process around 76,000 death awards. Are those death cases primarily World War II or World War I or just what are they?

Ms. STARBUCK. The predominant number would be in World War II and World War I, Mr. Hall. Those are insurance cases and they would be those World War I veterans who continue to hold Government life insurance.

Mr. HALL. Approximately how many World War I veterans do we still have?

Ms. STARBUCK. Oh, gosh. I don't have that figure.

Chairman MONTGOMERY. I believe it is about 450,000.

Ms. STARBUCK. About half a million.

Mr. HALL. The veterans of the Vietnam war—are they keeping their GI insurance when they get out or are they dropping it?

Ms. STARBUCK. While in service they are insured under the Servicemen's Group Life Insurance program. After separation they may apply for a 5-year Veterans Group Life Insurance term policy. I would be happy to furnish to you and to the committee any figures we may have on conversion by Vietnam era veterans from SGLI into a VGLI policy.

[Information follows:]

There are currently 500,699 insureds under VGLI. SGLI-to-VGLI participation fluctuates between 30 and 35 percent of those who had SGLI.

Chairman MONTGOMERY. Would the gentleman yield? We are also planning on having Mr. Melidosian, who runs the Philadelphia insurance office, here to talk about the insurance programs. My opinion is that we have got to do something about the World War II veteran who didn't convert his insurance even though he made—I don't guess you would call it a mistake, but he had the term insurance and now he is paying a big premium and doesn't really know where to go and he is getting quite upset about it.

We need to come up with some low-cost solution that would give him some protection that he could pass on to his family. I think that this committee has got to come up with something. I just wanted to insert that into the record and let the committee know what we have planned.

Mr. Hall. Now, on page 9, you state that you don't think that the veterans are taking advantage of those disability benefits. The thing that is striking to me is you state that in 1979 you began mass mailings to inform them of these benefits. You were forced to reduce that mailing volume by 50 percent in February 1980, and that the current volume will require another 6 to 7 years to complete. Why that long?

Ms. STARBUCK. Well——

Mr. HALL. Is there not some way that you can computerize this thing?

Ms. STARBUCK. It is computerized.

Mr. HALL. It would do it much quicker than that.

Ms. STARBUCK. It is computerized, sir. It is not so much the mailing, it is the response to the mailing that makes it impossible for us to make the mailing.

What happens is that if we produce this mailing, if we send out, for example, 10,000 notices to individuals and if 5,000 of them respond applying for disability waiver of premiums on a policy, we do not have the capacity to process those in a timely fashion. So we have reduced the output to the insured in order to control the input to us at a level which we can handle.

Mr. HALL. Well, I thought that that paragraph on page 9 meant that you began the mass mailings just to inform them of these benefits.

Ms. STARBUCK. When we inform we get a reaction, Mr. Hall.

Mr. HALL. I realize that you get a great response to these things, but I don't see why that should delay the notification to these people that those benefits are available if they are subject to being used by a veteran.

As you say, I think there are many, many veterans who don't even know about the disability benefits attached to that GI policy.

Wouldn't it be better to notify everyone? You may be covered up with replies, as you indicate you are, but wouldn't it be better for these people to know that they do have coverage if the situation did arise in the future?

Ms. STARBUCK. Well, I guess I would agree with you, Congressman Hall. Our insurance program is probably one of our most consumer-oriented programs, and we try to keep our people fully informed. I would be happy to take another look at it.

Mr. HALL. That is just a suggestion.

Ms. STARBUCK. I understand what you are saying.

Mr. HALL. It appears to me that in 7 years, if you cut back on notification to these people, you could have some meritorious cases that may not ever be processed because the people in the beginning did not know that that situation existed.

Ms. STARBUCK. That is undoubtedly true, Congressman.

Mr. HALL. That is just a thought.

Ms. STARBUCK. Thank you.

Mr. HALL. One question, Mr. Shuman, and this may have been already answered by some of the staff information. Having practiced law for nearly 30 years, I am looking at page 3, when you say that a member of this Board has an average of 1 hour to review each case. Does that mean what I think it means? After staff has done all the work that they have done, that each member of Board—one of these three-member Boards—has about 1 hour to review that case?

Mr. SHUMAN. Yes, sir. The staff attorney prepares a completed decision which has been researched and written and submitted to the Board. Each Board member has just about 1 hour to review it. This means that there is about a 3-hour review on a case since we set a goal of about 40 cases a week for each of our 16 sections.

Mr. HALL. Well, has that been the norm for some period of time—about 1 hour per member? It seems to be a short period of time——

Mr. SHUMAN. Yes, sir.

Mr. HALL [continuing]. Back when I practiced law—to review a case——

Mr. SHUMAN. Yes. Well, sir, unless you were fortunate enough to have good law clerks, an hour is a short time. But remember that some cases are written up in 2½ pages, whereas others may take 15, so it is an average of 1 hour, not just 1 hour.

They don't have to dig into the evidence. The evidence is set out in the decision itself. The laws and regulations are set out in the decision itself. The arguments presented by the representatives are briefed in the decision itself. So it is a question of reading this decision and checking what they feel is important.

Mr. HALL. Having lived with this from day to day, you are, I assume, of the opinion that this time that each person has to review it is a sufficient period of time.

Mr. SHUMAN. I think so, as long as they take longer time on the cases that deserve it, and that is done. I wish all my sections did 40 cases a week. Some do. Some do more, naturally.

Mr. HALL. Thank you. I yield back the balance of my time.

Chairman MONTGOMERY. Thank you. George, do you have any questions?

Mr. HANSEN. Thank you, Mr. Chairman. Mr. Shuman, do you find similar increases in workload and time delays in Federal district courts and Social Security Administration?

Mr. SHUMAN. Yes, sir, I do. Social Security had a logjam of hundreds of thousands of cases not too long ago. That is when the courts started getting interested in the timeliness and put some limitations on the time that a case had to be before the Board.

But, you know, this is a universal program. I was out in Arkansas just recently and the Public Utilities Commission and the legislature were going through this very battle. One part of the legislature—the House—wanted to put 120 days, 180 days, and somebody else on the other side wanted at least 90 days. The Chairman of the Commission testified that he would like 13 months because the more time it took, the better decision they could come up with. I think we are all faced with that. The courts are overburdened with cases and, of course, they just have to wait their turn. The legislature can certainly define a reasonable time in legislation and the Board would have to comply, but we would have to have the wherewithal to get the cases out, and I know, Mr. Hansen, you realize that.

Mr. HANSEN. Do you have any ideas about how to simplify and speed this up?

Mr. SHUMAN. I don't think you can simplify when you have to write an original decision. There are no computers made yet, that I know of, that can analyze the evidence and apply it to the laws and regulations which you have kicked into it and then write a reasoned decision.

I think that we have done everything we could to motivate our people. When you sit there and turn pages day after day, there may be a tendency, if the work pressure is too great, to forget that there is a person represented by the case file that you are working on. When you start moving through it like pieces of paper, when you forget the human factor in a case, the purpose of the appeal is lost.

Mr. HANSEN. Well, do you think that this is more of a function of an increasingly adversary citizenship, you know, versus the Government than of the VA bureaucracy itself, or how do you relate to that?

Mr. SHUMAN. I look at the increase—and I just made several trips out to the field—and I think it is universal. The increase is coming about because World War II veterans are now retiring. Social security isn't sufficient to live on. They are looking to supplement their income by Government benefits of whatever order. I think we are finding more and more of these cases.

Mr. HANSEN. And then the fact that maybe some of them put off making a constructive decision regarding things like insurance that the chairman suggested, that is now coming back to fight them, and it is quite a problem.

Mr. SHUMAN. Exactly. There has been an increase in the awareness of the average citizen that he has a right to due process. His claim is very important to him and he wants it adjudicated.

Mr. HANSEN. Ms. Starbuck, you mentioned on page 5 of your testimony that the overtime cost for DVB was $4,348,018. I am wondering if there isn't a better way to handle it so that you don't get into this kind of a problem.

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Ms. STARBUCK. Well, Mr. Hansen, nobody likes overtime less than I do because eventually you reach a point of no return. The answer, of course, to the expenditure of overtime is an additional trained staff available to the regional offices.

We have very seriously curtailed overtime expenditures so far this fiscal year because of the fact that we had pending with the Appropriations Committee a request for recovery of full-time equivalent positions as a result of the Target slippage. We knew that that was not going to be processed until late in the game and the chances for that are getting slimmer by the day.

So we did curtail overtime money during the first half of the year. We are now picking up funds in the exercise of the Presidentially imposed two-for-one hiring freeze—or one-for-two hiring freeze. While the money is not going to be withdrawn from the agency, it will be available to use for overtime purposes.

Where our regional offices are backing up a bit while they are in phase II training, we are now making overtime funds available to them to keep that workload a little bit more current.

Mr. HANSEN. Well, Mr. Chairman, I appreciate what these folks are saying. I understand their problems because they are compounding on everyone. I think we can't urge enough for administrators of the executive agencies to remind people that they are serving people as you suggested and the concern that was voiced by Mr. Hall a moment ago, the fact that maybe it doesn't seem like we are moving through these cases very rapidly, and I have found many instances, even in the Veterans' Administration, where people take their jobs rather routinely: 9 to 5, vacation as usual and the people they serve sometimes be damned.

I think that it is always a problem, I guess, keeping the attitude level up and not treating things as a routine, but believe me, we are talking about people's problems and each one of them, in most cases, is important. They are distressed in certain ways. They need relief. I think we can get so routine and bureaucratic in our paper shuffling and the way that we treat these things that these people fall by the wayside and there is nobody who gets more of the anguish than we do in congressional offices because they come to us as some kind of a spokesman against the bureaucracy.

So I can't encourage you too strongly to remind people that, yes, we would like them to have the benefits of being able to go to work on time and go home on time and have their vacations as usual and so forth, but I hope they come to work and make their work productive and, if they have to stay 10 minutes after to take care of some poor guy's problem, I hope they will do it.

I have had examples of people who absolutely wouldn't bend, even to save a veteran $1,000 on a house or something else. They just wouldn't bend the rules, and know—I don't mean bend the rules but bend, because the paper came in 10 minutes before quitting time and they weren't going to start on something right then.

Then you had to go to some appeal process here to remind them that it was in on time and the man was entitled to his benefits just because they wouldn't process it at that time to save him some money.

So I just hope we don't let people fall through the cracks of our rigidity as bureaucrats and Government servants or whatever.

Ms. STARBUCK. Mr. Hansen, I can assure you that our people are aware of this and, where you meet situations like that, I would like to be the first one to know about it.

Mr. HANSEN. We will try to make you the first one and I appreciate your attitude. Thank you.

Ms. STARBUCK. I hope they are rare.

Chairman MONTGOMERY. Without objection, we have some questions we would like to submit to the witnesses this morning and then maybe I will ask two questions for the record also this morning.

[Questions and answers follow:]

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., May 12, 1980.

Hon. MAX CLELAND,
Administrator, Veterans Administration,
Washington D.C.

DEAR MR. ADMINISTRATOR: As I stated during the hearing of May 7, I have additional questions to which I would appreciate your giving your attention and supplying me with answers for the hearing record as soon as you can conveniently do so.

The questions are numbered from 1 through 7 and are attached hereto.

Thank you for your prompt attention.

Sincerely yours,

G. V. (SONNY) MONTGOMERY,
Chairman, Subcommittee on Compensation,
Pension, Insurance and Memorial Affairs.

1. I asked this question to Miss Starbuck during the proceedings but am not satisfied with my understanding of the answer. Would you please answer this question again.

I understand that the Honeywell equipment at the Hines DPC is undergoing a real test with the IBM computer being unplugged. In the past we have noted that bringing new stations onto Target created stress situations which affected the whole system. With the Honeywell hardware at Hines having to handle the Central Regional Offices as well as the cycle processing for the whole country, has there been any decline in stability of the system this week?

2. We understand, originally, plans for the use of new equipment included a reduction in the number of cycles monthly from 8 to 6. What adverse impact on service do you anticipate from this reduction in the number of regularly scheduled cycles?

Are you reasonably sure that this additional stressing of the system will not further delay installation of needed Phase II features of the system?

3. We continue to receive complaints about the very long time it takes to get examinations for rating purposes. We have noted on our reviews that a large part of these delays on occasion are attributed to extended delays between completion of the examination process and the paperwork and the certification necessary to get the examination to the rating board.

I know that your procedures call for regular meetings by the representatives of the regional offices and the clinics.

Do you monitor these requirements?

What does your analysis show in this regard?

4. I asked Mr. Shuman the following question. On page 3 of your testimony, you say that the average time from date of receipt until the case is assigned to a staff attorney is 68 days with another 54 days until the case is disposed of. This takes about 4 calendar months.

In our case review, we know that it is taking 7 to 9 months now after a case is certified by a Regional Office before a decision is made. We have been told that when a regional Office certifies an appeal as ready for your consideration, they inform your office but do not send you the records. They wait for a period of several weeks or months until you ask for the actual transfer of the records.

Do you have any statistics to show the average time it now takes from the date the regional offices certify the appeal until the final decision is made?

We have had some criticism that failure to send the claims folder to your office at the time of certification actually delays processing of the case. Would you comment on this?

Please give me a total in days from the time the average notice of disagreement is received in the regional office and the date a decision is forwarded to the appellant?

5. We have noted that more and more people are making appearances before the Board on behalf of their appeals. We also note that much of this is done when traveling sections of the Board travel in the field. To what extent do you anticipate reducing visits to the field as the result of budgetary cuts during the remainder of fiscal year 1980 and fiscal year 1981?

6. Does your analysis of decisions being rendered reflect any substantial effect upon the final decision by a personal appearance of the claimant?

7. If your answer to the preceding question is yes, then would you say that a reduction in the frequency of traveling board visits would result in a lack of full due process to some claimants?

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, D.C., June 9, 1980.

Hon. G. V. MONTGOMERY,
Chairman, Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request of May 12, 1980, I am enclosing responses for the record to your questions concerning the Subcommittee's Department of Veterans Benefits/Board of Veterans Appeal workload oversight hearing.

Thank you for the opportunity to furnish this additional information.

Sincerely,

MAX CLELAND,
Administrator.

Enclosure.

Question 1. I asked this question to Miss Starbuck during the proceedings but am not satisfied with my understanding of the answer. Would you please answer this question again.

I understand that the Honeywell equipment at the Hines DPC is undergoing a real test with the IBM computer being unplugged. In the past we have noted that bringing new stations on to Target created stress situations which affected the whole system. With the Honeywell hardware at Hines having to handle the Central Regional Offices as well as the cycle processing for the whole country, has there been any decline in stability of the system this week?

Answer. The introduction of the C&P batch programs into production on the Honeywell equipment has had no apparent impact on the online system and vice versa since the IBM equipment was unplugged May 15. That is,the running times for the cycle runs are nearly the same whether the online system is running or not. Also, since the online system is given the highest priority, it always gets whatever resources are required and as a result, the response time in the Central Region has not been affected since introduction of C&P batch processing.

In the past, when we brought on additional stations into the online environment and workload increased correspondingly, we experienced stress situations which made the system unstable. The difference here is that even though we are adding workload to the system as a whole, the workload is in the form of totally different programs from the online system. In other words, the increase in workload is not in the online environment.

The Hines DPC environment is very dynamic. Whenever system software or networking software modifications, corrections, enhancements, etc., are received from Honeywell, we thoroughly test them in a test environment and then introduce them into production only in Hines for a week or two before distribution to Los Angeles and Philadelphia. During this same time period, a network software release has been installed at Hines and has adversely affected Central Region uptime statistics by a few percentage points. This slight increase in online downtime is related to the network software changes, not to the cycle programs.

Question 2. We understand, originally, plans for the use of the new equipment included a reduction in the number of cycles monthly from 8 to 6. What adverse impact on service do you anticipate from this reduction in the number of regularly scheduled cycles?

Are you reasonably sure that this additional stressing of the system will not further delay installation of needed Phase II features of the system?

Answer. Since cycles will not run as often and cycle processing time is greater, it will take longer to process transactions, particularly when a transaction rejects and requires resubmission. Additionally, for cases which are not automatically adjusted during an adjustment run, such as the just completed Cost-of-Living Adjustment, the reduced number of cycles severely hampers the regional offices' ability to effect a timely manual adjustment. However, we have been assured that the reduction in cycles is only temporary and, beginning in July, the full complement of cycles will be restored.

We have dual processor Honeywell computers for the Target System. The way in which the hardware and software work together (oversimplified) effectively would put the C&P batch system in one processor and the online system in the other and they would not interfere with each other. The biggest problem that we face at this time with regard to expanding Phase II of Target is the underpowered IBM processor in Austin, Texas which runs the BIRLS System. We are transferring the IBM S370/168 to Austin from Hines to eliminate this problem.

With the 370/168 in place at Austin and the continued improvements to systems software that Honeywell has scheduled in the next few months, we do not expect any excessive stress on the system as Phase II is implemented at our remaining stations.

Question 3. We continue to receive complaints about the very long time it takes to get examinations for rating purposes. We have noted on our review that a large part of these delays on occasion are attributed to extended delays between completion of the examination process and the paperwork and the certification necessary to get the examination to the rating board.

I know that your procedures call for regular meetings by the representatives of the regional offices and the clinics. Do you monitor these requirements? What does your analysis show in this regard?

Answer. Our procedures require conferences be held between regional office personnel and the Health Care Facility personnel concerning the adequacy of medical reports, including the timeliness of such reports. These conferences are held as the need is demonstrated.

These conferences attempt to solve any problems relating to timeliness of reports etc., by local management. When the solution to a problem is not within the purview of local management, the matter is to be forwarded to Central Office for resolution.

The routine regional office systematic analysis includes an analysis of any out-of-line situations involving timeliness problems concerning examinations for rating purposes.

Our review indicates that as of April 30, 1980 there were 33,532 examinations pending in VA Health Care Facilities. Of this number 24,822 or 74.0 percent were pending 1 month or less; 31,193 or 93.0 percent were pending 2 months or less; and 33,483 or 99.9 percent were pending 6 months or less. In rare instances are examinations pending for extended periods of time.

Question 4. Do you have any statistics to show the average time it now takes from the date the regional offices certify the appeal until the final decision is made?

We have had some criticism that failure to send the claims folder to your office at the time of certification actually delays processing of the case. Would you comment on this?

Please give me a total in days from the time the average notice of disagreement is received in the regional office and the date a decision is forwarded to the appellant.

Answer. Our experience is limited and not very firm yet—it takes time for the cases to flow through the process and for changes to show up—but it appears that there was an increase in time of about 18 days between the last quarter of fiscal year 1979 and the second quarter of fiscal year 1980. Our samples of BVA processing time for April show that the Board took an average of about 90 days. This dramatic shift is due to the drop in the number of cases on hand and emphasis in clearing older cases from our docket.

We do not have figures on the average time it takes from the date the regional offices certify the appeal until the final decision is made. The dates we track are: (1) Date of receipt of substantive appeal by the field station; (2) date received at the Board of Veterans Appeals; and (3) date of the BVA decision. Our chart shows the times computed from these dates. We believe the figures for the next quarters will give us a better picture of the results of our appeals call-up procedures. We believe that the time spent waiting in field offices will be offset by more rapid processing through the Board of Veterans Appeals.

APPEALS PROCESSING TIMES

	(Fld) Stage III	(BVA) Stage IV	Combined stages III and IV	Approximate time in months
Fiscal year 1979:				
1st quarter	80.3	121.7	202.0	6.7
2d quarter	83.9	132.8	216.7	7.2
3d quarter	93.3	128.0	221.3	7.4
4th quarter	98.3	124.8	223.1	7.4
Average	89.0	126.8	215.8	7.2
Fiscal year 1980:				
1st quarter	98.0	122.1	220.1	7.3
2d quarter	105.4	135.7	241.1	8.0

Field (Fld) Stage III is the time from date of receipt of the substantive appeal by the field station to date of receipt at the Board of Veterans Appeals.

In response to the question of the total average appeals processing time—from receipt of the notice of disagreement (NOD) to dispatch of the BVA decision—this chart shows our figures for the past year and a half.

PROCESSING TIME IN DAYS

	NOD to receipt at BVA	BVA time	Total time
Fiscal year 1979:			
1st quarter	187	122	309
2d quarter	190	133	323
3d quarter	199	128	327
4th quarter	209	125	334
Average	196	127	323
Fiscal year 1980:			
1st quarter	210	122	332
2d quarter	216	136	352

It should be noted that a portion of the field station processing time, NOD to Receipt at BVA, is directly controlled and affected by the rapidity with which the veteran submits his/her substantive appeal following receipt of the Statement of Case.

Question 5. We have noted that more and more people are making appearances before the Board on behalf of their appeals. We also note that much of this is done when traveling sections of the Board travel in the field. To what extent do you anticipate reducing visits to the field as the result of budgetary cuts during the remainder of fiscal year 1980 and fiscal year 1981?

Answer. For fiscal year 1980 we plan to limit our Travel Board cuts to 4 days (two in Columbia and two in Atlanta). We estimate that this will result in a reduction of 25 personal hearings. Other measures taken for this fiscal year are the reductions from three to two Board Members for the San Juan trip, and consolidating two trips to the southwest and reducing the panel to two Board Members. As of this time there are no fiscal year 1981 travel cuts.

Question 6. Does your analysis of decisions being rendered reflect any substantial effect upon the final decision by a personal appearance of the claimant?

Answer. Raw statistics show a higher incidence of allowance in those cases in which there has been a personal appearance by the appellant before the Board. The following statistics reflect these allowance rates:

RATES

(In percent)

	Fiscal year—				
	1975	1976	1977	1978	1979
Allowed	26.5	22.4	22.6	30.7	34.6
Remanded	25.6	18.9	14.0	12.0	12.5
Denied	46.0	56.9	60.8	54.9	51.6
Other	1.8	1.9	2.6	2.2	1.1

Compare the foregoing with the allowances in all cases decided by the Board:

	Percent
1975	14.8
1976	12.7
1977	12.7
1978	12.5
1979	12.7

The impulse may prove irresistible to jump to the conclusion that there is a cause-effect relationship between the fact of a Board hearing and final disposition of the case. We caution that this is not necessarily true. There is no question that a personal hearing gives the Board firsthand knowledge of the claimant's demeanor and additional opportunity to elicit information which can, in some instances, facilitate establishing entitlement. However, it may well be that there is something inherent in the nature of the cases in which a hearing is sought that accounts for the enhanced allowance rate. For example, it is not unreasonable to postulate that the claimants whose cases have most merit are also the most likely to expend the time and money necessary to enter an appearance.

To test the hypothesis that the Board hearing itself has a bearing on the final disposition of cases would require a comparison of the hearing cases with a control group of otherwise comparable cases in which no hearing had been conducted. Whether enough truly "comparable" cases could be found to produce valid findings is indeed questionable.

Question 7. If your answer to the preceding question is yes, then would you say that a reduction in the frequency of traveling board visits would result in a lack of full due process to some claimants?

Answer. There is no way to predict with confidence whether the allowance rate following notice of disagreement would vary if there were to be a significant cutback in Travel Board hearings (which is not contemplated), or indeed whether elimination of Travel Board hearings altogether would have any adverse impact. No statistics are kept as to allowances following Rating Board hearings in the field.

We would add, however, that the following combined Field Station/Board of Veterans' Appeals allowance rate after receipt of a notice of disagreement compares favorably with the Board's allowance rate following hearings (see answer to Q. 6):

Combined allowed rates—percent fiscal year

1975	25.0
1976	25.1
1977	23.3
1978	24.8
1979	22.8

It may well be that, were the same cases to be heard by BVA personnel and separately by Rating Board members, their proposed dispositions would not appreciably differ.

In sum, there is no indication that the very modest fiscal year 1980 curtailment in Travel Board hearings will have any impact at all on the final disposition of those cases. The availability of hearings before Rating Boards at any time (38 C.F.R. 103(c)) amply protects the procedural rights of claimants.

Chairman MONTGOMERY. Mr. Shuman, on page 3 of your testimony you say that the average time from date of receipt until the case is assigned to a staff attorney is 68 days, with another 54 days until the case is disposed of. This is about 4 calendar months.

In our case review, we know that it is taking 7 to 9 months now after a case is certified by a regional office before a decision is made. We have been told that when a regional office certifies an appeal that is ready for your consideration, they inform your office but do not send you the records. They wait for a period of several weeks or months until you ask for the actual transfer of the record. Do you have any statistics to show the average time it now takes from the date the regional office certifies the appeal until the final decision is made?

We have had some criticism that failure to send the claims folders to your office at the time of certification actually delays processing of the case. So would you comment on this?

Mr. SHUMAN. Yes, sir. Mr. Chairman, we were running into a problem of security of files and storage space, and we had 12,000 cases before the Board. As the committee knows so well, we are in cramped quarters and there were efforts to alleviate that situation.

We did have the problem. We have for a number of years been talking with Ms. Starbuck about putting in an automatic docketing process, or at least control of the cases, so that we wouldn't have to get them all at one time. We prefer to have a level docket, not in 1 month get in 4,000 or 8,000 cases and in the next month, 2,000 cases.

So something was necessary and we really only had a month's experience with this thing because we put it on line about November 1979, and at that time it just broke down. I have got the computer expert here, too. I forgot about Mr. Martin being here. We worked on this problem for a number of months.

We are still having some problems. There are, you know, two sides to this thing. The bad side is that we have about 15 days longer, on the average, that a case is waiting until it is called into the Board.

While that case is out in that regional office—I have talked to many adjudication officers; they are in a better position to answer correspondence. Before we went on that automatic system, they would get an inquiry about an education claim. They would have to call the Board. We would have to pull the file and give them the information and, in some cases, we had to return the file.

Now, as Target, I suppose, becomes fully operational, there will be many things they can answer without the case file so that a veteran is getting a quick response to his current question. At the same time, he has to wait another 3 weeks before his case gets to the Board of Veterans Appeals.

The positive effect on the Board is, we have been able to get rid of some real old cases since we have leveled out with this procedure. We hope that it will improve and that we will eventually be able to cut down on the waiting time.

Right now, I am afraid that, yes, it is true that it takes 15 or 16 days longer, but it is not wasted time. The case would be sitting at the Board anyway, Mr. Chairman. It would not be worked on in those 15 days.

Chairman MONTGOMERY. Why do you have such a fluctuation of caseload?

Mr. SHUMAN. It depends on the workloads in the regional offices, which we can't control at all. They can't control it either. Whenever

a man wants to file a claim or file on appeal, that is certainly up to the veteran or to his dependents.

Chairman MONTGOMERY. Thank you. Ms. Starbuck, I understand that the Honeywell equipment at Hines DPC is getting a real test this week with the IBM computer being unplugged. In the past we have noted that bringing new centers onto Target created—which you mentioned—stress situations which affected the whole system. With the Honeywell hardware at Hines having handled the central regional offices as well as the cycle processing for the whole country, has there been any decline in stability of the system this week?

That is a rather complicated question. I am not sure if you gave me an answer I would know what you are saying, but maybe it will help for the record.

Ms. STARBUCK. Well, Mr. Chairman, the accessibility of the regional offices to the Target system is not affected by this operation at all. Mr. Martin is working toward a movement of that IBM computer down to Austin, Tex., in order to improve the functions of the BIRLS system, and I am going to let him talk technical. But, I want to go on record with this committee as I have gone on record with Mr. Martin, that that 168 doesn't get the plug pulled on it until both he and I and everyone else who is concerned about this are assured that the Honeywell system is going to function 100 percent for us.

Even if this means that we must further delay bringing on the balance of our stations into phase II, the 168 cannot move until we are all assured, and we are moving to that assurance, that the claims processing will be done accurately and timely.

Bill, do you want to add something to that?

Mr. MARTIN. We have a system of prudent priorities where the online system that serves the regional offices always comes first in terms of resources made available.

In our technical view, we have adequate Honeywell hardware at Chicago to serve both the veteran online functions of the systems and the batch processing or the cycles that are used to pay benefit checks.

What we are involved with presently is moving from the IBM equipment to the Honeywell equipment at Chicago, the batch processing that we have been running on IBM for a long time.

As Ms. Starbuck says, we will make a very prudent decision and, before we move that machine from Chicago to Austin, the first priority, obviously, is that financial benefits to veterans remain absolutely secure.

We are making good progress. I feel quite confident that we will very likely make a May 15 plug pulling date, but we will measure this right up through May 14, and we will probably not make a final judgment until then.

We have something of a dilemma. We need to improve the capacity to serve BIRLS, the beneficiary identification locator file in Austin, which is also a very important integral part of the Target system. We are running out of capacity there. That is the essential reason for our decision to move that larger machine down to Austin so that we can continue to maintain adequate response time for BIRLS type inquiries.

As we move further into implementation of phase II, you could understand that the pressure in the BIRLS system will continue to

rise. So we have two problems that we are trying to measure in a prudent way, and I assure you that we will do that.

Chairman MONTGOMERY. Mr. Martin, do you have the permission and authority from whomever you have to get it from to go ahead and move this computer to Austin, Tex., when you feel it is ready to be done?

Mr. MARTIN. Mr. Chairman, I would like to take this opportunity to express my appreciation to this committee for your having taken a critical interest in this dilemma late last year. I think it was largely through your expression of interest and additional studies that were edicted by this committee that gave us the opportunity to actually retain the 168. We have now received approval to retain it and for its transfer to Austin. That is now formal.

Chairman MONTGOMERY. Thank you very much. One other comment. I was thinking about the budgetary restrictions, but I think that this subcommittee has tried to be fair with other agencies of the Government. There are a lot of programs that we could vote out of this committee for the veterans or their dependents that would be awfully expensive. What we have tried to do on the committee is to present to our colleagues those programs that really help the needy veteran and his or her survivors.

So, when we stand up and fight to help you get more people to do your work, I don't have any qualms about it. I think that some of us individually have taken some heat on bills that veterans wanted, but we felt that we needed to go at the needy veteran more. We certainly need to do a better job and not let this situation get out of hand; if we can't process these claims, it is going to take longer and longer to help the veteran.

You certainly have a friend in this group to try to improve the situation that you are now facing, and I know that you are dedicated. We certainly are concerned about the problems that you mentioned today.

We appreciate very much the witnesses being here. We will excuse you at this time and thank you for bringing this information to us.

I would like to—so thank you, Ms. Starbuck and Mr. Shuman.

Ms. STARBUCK. Thank you, Mr. Chairman.

Mr. SHUMAN. Thank you, Mr. Chairman.

Chairman MONTGOMERY. I would like to invite our next three witnesses up to the table at the same time: the Veterans of Foreign Wars, Mr. Philip Mayo who is the special assistant on legislative service; the Disabled American Veterans, Mr. Edmiston, who is administrative assistant to the Disabled American Veterans; and AMVETS, Mr. Gabe Brinsky, who is director of the national service and legislation.

OK. Mr. Brinsky is not here. Without objection, we will have his statement put in the record

[Statement follows:]

PREPARED STATEMENT OF GABRIEL BRINSKY, AMVETS

AMVETS appreciates this opportunity to express its views regarding the timeliness and quality of the claims and appeals in the processing function both in the Department of Veterans Benefits and the Board of Veterans Appeals.

We believe that timeliness in processing the claim for an appeal is of paramount importance to the claimant. For, until the adjudication has been accomplished, no

benefits regardless of how warranted, can be paid. The claimants, who may be in need of funds, are denied the benefits until a determination has been made. And we believe that time is of the essence in appellate cases where the appellant is anxiously awaiting to learn whether the appeal will be granted. We are also of the firm view that undue delays, particularly during the appellate process, can infringe upon due process.

It is axiomatic that the less personnel available to handle a particular case load will require an extention of the period of time in which it can be accomplished. If the staffing of the Department of Veterans Benefits is analyzed, it reflects that approximately 500 people have been cut off by reason of the expected performance and utilization of target Phase II. The ambitious goal set for Phase II of target has not been realized. By reason of the President's budgetary reductions, the Department of Veterans Benefits will be reduced by an additional 70 personnel. While this figure is not imposing standing alone, it is deceiving in that it is in addition to the 497 people which the Department is already going to lose.

We are unable to interpolate this loss in terms of the exact number of days which will be required to process a pending claim or any other action requiring adjudication. That it will impact upon the length of time required in the processing of the claim is an obvious forgone-conclusion. And, it is bound to aggravate the processing time required in cases involved in appeals to the Board of Veterans Appeals.

Prior to the reduction of the proposed staffing, the time required to process a case before it comes to the Board of Veterans Appeals is 196.3 days. This from the time the claimant files a notice of disagreement, the initial step in filing an appeal, expressing dissatisfaction with the originating agency's action on the claim, until the case gets to the Board.

At the present time, appeal cases are not forwarded to the Board until the Board requests them. This call-up procedure is made necessary by reason of the heavy case-load of some 7,200 cases at the Board. Approximately, 25 days elapse from the time the case is ready for the Board and the time that it is requested for transfer to Washington. This means that more than 7 months elapse from the time that the notice of disagreement is filed and the records finally arrive at the Board.

Currently, the average processing time of a case at the Board is 126 days. Added to this is the time required in the Field to prepare the case for forwarding to the Board. The total approaches approximately one year.

This length of time, under any standard, is unacceptable, More significantly, this means that there are cases where an appellate decision is not made until long after a year has elapsed from the time the appeal was filed until a determination has been made. For, we are dealing with averages and obviously where the average is approximately a year there will be some cases processed in less time and some cases will require more time.

It is appreciated that some delays are unavoidable. But unreasonable lengthy processing time should be the exception and not the rule, it affects both service and due process. Efforts need to be directed, aided by whatever studies that may be necessary, to improve the processing time of claims and appellate decisions.

In addition to such studies, an obvious solution which would aid in remedying the situation is that of additional personnel. We believe that the continuing reduction of personnel in the Veterans Administration has seriously impaired the quality of service to which our nation has dedicated itself to our veterans and their dependents.

Chairman MONTGOMERY. Philip, why don't you proceed.

Mr. MAYO. Thank you, Mr. Chairman.

Chairman MONTGOMERY. And without objection, your full statement will appear at this point in the record.

[Statement follows:]

PREPARED STATEMENT OF PHILIP R. MAYO, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and members of the subcommittee: Thank you for your invitation to appear before this distinguished Subcommittee to present the views of the Veterans of Foreign Wars of the United States regarding the timeliness and quality of the claims and appeals processing function of the Department of Veterans Benefits and the Board of Veterans Appeals of the Veterans Administration.

As you know, Mr. Chairman, the V.F.W. employs nearly 100 Service Officers and a number of Claims Consultants to represent veterans, their dependents, and

their survivors before the appropriate administrative elements of the VA for the purpose of securing for those individuals the various benefits and services to which they may be entitled. The views expressed herein are the product of their knowledge, understanding, and involvement in the claims processing function of the VA and of their commitment to compassionate service to this Nation's veterans.

We would like to commend, at the outset, the diligent and loyal efforts of employees of the VA who endeavor to make the claims process, despite the various and sometimes extreme pressures brought to bear upon them, a workable one—one which gets benefits to eligible beneficiaries.

Some of the same problems that we described in our testimony of July 17, 1979, with respect to the workload levels in VA Regional Offices, still persist. It is our view that the timeliness of resolving claims actions has improved over the last year. This has been brought about by the resolving of the greatest part of those claims actions resulting from the passage of new legislation last year and the Department of Veterans Benefits' good fortune in retaining, on the whole, a delicate balance of trained personnel to keep these actions at a workable level. The pending workload levels at Regional Offices average three to six days, with the Western Region maintaining a ten-days pending workload. Our Service Officer personnel consider this to be a workable level with the exception of the ten-days period.

In addition, it does not appear that considerable overtime has been utilized to achieve the current level of claims processing productivity. Information made available to us indicates that overtime has been used sparingly and has required justification. The "flex-time" and "compressed time" work schedules experiments in the Regional Offices have not noticeably reduced processing time efficiency, but have caused, in some cases, periods of greatly reduced supervision of employees and some claims processing delays as a result of the absence of the VA employee who is processing a case requiring action.

The effects of the high level of "down-time" in the TARGET System, until recently, were a source of great aggravation both within and without the system, particularly in those offices having, out of necessity, to rely to a greater degree on its functioning. The recent up-swing in its efficiency is noted as a source of great satisfaction to our Service Officers, and it has greatly increased the anticipation of the implementation of a workable Phase II function. The delicate situation insofar as claims-processing personnel levels, coupled with the delay in the "coming-on line" of Phase II of the TARGET System, has caused our Service Officers to express great concern as to what severe damage to the claims processing function may occur should current hiring restrictions continue in force and planned personnel reductions take place. A situation comparable to that which took place last year is envisioned.

Even though timeliness of claims processing appears to be close to an acceptable level, we believe that the quality of claims processing has not greatly improved. Information available to us shows that the percentage of cases remanded by the Board of Veterans Appeals has remained relatively constant, thereby indicating a lack of claims processing quality improvement. We are aware that the lack of proper case development and what is described as "top sheeting" cause processing time to increase, thereby rendering a disservice to deserving veterans, their dependents, and their survivors.

We are also firmly convinced that the current budget limitations being imposed upon the VA cannot serve to enhance the treatment rendered to our veterans by the VA. Current trends in unemployment and inflation will only increase the demands placed upon the resources of the VA. The balance of resources available within the system to meet these increasing demands is so precarious that no element of it could viably survive the impact of circumstances similar to those brought about by last year's hiring freeze. The importance of the coming-on line of Phase II of the TARGET System to the Department of Veterans Benefits cannot be overemphasized in assessing the "health" of that department in view of these trends.

Mr. Chairman, as is well known, the "buck" stops with the Board of Veterans Appeals (BVA). Inasmuch as the BVA has no TARGET system to enhance its appeals processing functions, it is forced to seek greater production from its already over-taxed staff or to add additional staff.

Consequently, it is our view that the BVA is meeting the demands placed on its resources as well as can be expected and still render the compassionate and high quality decisions it is called upon to make. It is not possible to set a time frame on the rendering of a quality, compassionate decision.

It is our concern that the pressures of an extremely heavy workload and the desire to render high quality decisions in a shorter time frame may cause decisions rendered by the Board to be less compassionate. We hope this does not occur.

Mr. Chairman, we commend your continuing great interest in our Nation's veterans as demonstrated in this hearing today.

This concludes my testimony.

STATEMENT OF PHILIP MAYO, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS

Mr. MAYO. Thank you, Mr. Chairman. I would be happy to summarize with that understanding. Mr. Chairman, we would like to commend the loyal and diligent efforts of those VA employees who, under conditions sometimes of extreme pressure brought about by personnel shortages and budget constraints are able to get benefits to eligible beneficiaries.

Even though our service officers indicate no serious complaints with respect to the timeliness of resolving claims actions, we believe that cases are not always properly developed and that what is described as top sheeting continues. The fact that the number of cases remanded by the BVA has not decreased underscores this fact.

We do not know, outside increasing the staff of the BVA, how it can improve its performance. The BVA in essence is the last stop in the claims process and pressure to increase production significantly, we feel, will reduce the prospect of a quality and compassionate decision.

Mr. Chairman, the views of the VFW, with respect to the budget and personnel contraints being imposed upon the VA, are well known. Therefore, I will not review them at this time. Suffice it to say that there is such a precarious balance in the resources of the VA that any adverse change could only serve to have a very dilatorious impact on its ability to render service to our veterans. We believe this should not be allowed to occur, and we feel also that current economic conditions will only serve to increase the demands placed on those resources.

We also express the great anticipation of our service officers of the prospect of the coming on line of a workable phase II function of the Target system. This will considerably aid the VA in its quest to adequately allocate its resources.

Finally, Mr. Chairman, we commend you and this subcommittee for your continuing and demonstrated concern for the well being of our Nation's veterans. Thank you

Chairman MONTGOMERY. Thank you, very much. Steve, will you introduce the gentleman with you and proceed? Your written statement with appear at this point in the record.

[Statement follows:]

PREPARED STATEMENT OF STEPHEN L. EDMISTON, ADMINISTRATIVE ASSISTANT, DISABLED AMERICAN VETERANS

Mr. Chairman and members of the subcommittee: On behalf of the 664,000 members of the Disabled American Veterans and the 82,000 ladies of the Auxiliary, I am indeed pleased to appear here today to present our views on the timeliness and quality of the appeals processing function in the Board of Veterans Appeals of the Veterans Administration.

Mr. Chairman, the DAV commends you and the members of the Subcommittee for holding this hearing. Clearly, this reflects the sincere interest and concern of the Subcommittee in the manner in which the VA's appellate process serves this nation's veterans and their dependents.

As you know, Mr. Chairman, the DAV's primary interest is in the welfare of America's service-connected disabled veterans, their dependents and survivors. However, our service is not restricted solely to our membership as we offer representation to all veterans, their dependents and survivors in their claims before the Veterans Administration.

In order that we can provide representation to those veterans and their dependents who desire our services, the DAV employs some 297 full-time, professionally trained claims representatives in 68 offices throughout the country. These National Service Officers are physically located in, and/or regularly visit, most VA Regional Offices and VA medical facilities.

To ensure that each individual VA claimant receives complete and thorough DAV representation throughout the claims processing system, the DAV also maintains a National Appeals Office here in Washington, D.C.

In order that we might provide the Subcommittee with the most pertinent and useful data relative to the purpose of today's hearings, a letter was sent (copy attached) to the supervisor of our National Appeals Office, Mr. Jesse Brown. In response to our request for data, Mr. Brown in turn requested from the Chairman, Board of Veterans Appeals, responses to our questions. A copy of their reply is attached.

Mr. Chairman, the DAV views the objectives of the VA appellate program, as outlined in MBVA–1, Change 16 (February 18, 1977), in accordance with what should be expected from an appellate body of last resort. And I quote:

"1.01. Objectives of the appellate program.

"a. *Major.* The major objective is to equitably decide appeals under all laws administered by the VA, with sympathetic understanding and as expeditiously as possible consistent with quality, in order to grant all benefits to which veterans and their dependents are entitled.

"b. *Specific.* Specific objectives are:

"(1) To promulgate quality decisions which are equitable, comprehensive, fully reasoned and self-sustaining.

"(2) To maintain a high level of promptness in deciding appeals consistent with the quality of decisions expected of an appellate agency of last resort."

I am certain, Mr. Chairman, that we all agree that each and every VA claimant is entitled to a prompt, comprehensive, sympathetic and equitable determination from the Board of Veterans Appeals.

The attached data clearly indicate substantial increases in the number of appeal cases received by the Board of Veterans Appeals, particularly between 1976 and 1977. It is noted that the average employment at BVA substantially increased between 1977 and 1978 to accommodate this increased workload.

Also of significance, from 1976 to 1977 the number of calendar days elapsing from BVA receipt to BVA decision increased by 28 days. Then again from 1977 to 1978, this number increased by another 20 days, bringing the total number of days a case remains at BVA to 122.

Even with the addition of 40 more employees in 1978 and the relative stability of the number of appeals received during 1978 and subsequent decline in 1979, the Board has not been able to reduce their processing time below 122 days.

At this point, Mr. Chairman, we must express serious concern, and question the reason for these lengthy delays in appeal cases. While we do not know the reasons for this excessive appeal processing time, particularly in light of the additional employees and decline in appeal cases received, we urge this Subcommittee to conduct further investigation to determine the causative factors resulting in delays in processing appeals, particularly in light of current fiscal constraints.

Furthermore, Mr. Chairman, the DAV is appalled that any VA claimant must wait in excess of 300 days (over 10 months) from the time they file their Notice of Disagreement until they receive a decision from the Board of Veterans Appeals.

Additionally, Mr. Chairman, we are alarmed over the revelation by our National Appeals staff that the quality of the decisions being rendered by the Board of Veterans Appeals is declining in terms of BVA's mandate under MBVA–1, change 16. With respect to the oversight functions of the Subcommittee, Mr. Chairman, the DAV hopes that you will periodically review some of the decisions rendered by the Board of Veterans Appeals in order to ensure the quality of decisions in the VA appellate process.

This concludes my statement, Mr. Chairman. I wish to again thank you and the members of the Subcommittee for holding these hearings and permitting the Disabled American Veterans to present its views on the VA appellate processing function.

MARCH 25, 1980.

Mr. JESSE BROWN,
National Appeals Officer, Disabled American Veterans,
VA Central Office, Washington, D.C.

DEAR JESSE: This is in reference to prior conversations we have had relative to the VA's Board of Veterans Appeals.

You will recall that I mentioned the intent of the House Veterans Affairs Committee to hold Congressional "oversight" hearings on the Board of Veterans Appeals. It is my understanding that the Committee is particularly interested in BVA operational procedures and workloads—I imagine toward the goal of identifying any "problem areas" (if they exist) that might be negatively affecting BVA's mission.

This mission, as I understand it, is to provide a timely, just and compassionate review of adverse benefit determinations that have been formally appealed by veteran claimants. (Is there a better, more accurate or "official" statement concerning BVA's mission? If so, I would appreciate being informed of it. Title 38 does not appear to offer a very good statement of BVA purpose.)

At any rate, Jesse, it would be of immense help to me (in preparing the DAV testimony) if you could provide me with certain data and information concerning BVA operations and case loads—perhaps from 1976 up to the most recent data available.

I would be interested in obtaining information concerning the following:

I. BVA PERSONNEL

A. Number of rating boards.
B. Composition of boards:
1. Attorneys,
2. Physicians, and
3. Attorney reviewers.
C. *Clerical.* Have BVA personnel (in numbers) increased during the last three to four years? In your opinion is BVA adequately staffed? Understaffed? Considering BVA's present workload, how much time on the average do they spend per individual case?

II. WORKLOADS

A. Number of appeals certified to BVA each year.
B. Number of appeals considered by BVA each year and number left pending.
C. Most frequent issues on appeal—service-connection, increased service-connected disability rating, DIC, etc.
D. Information relative to:
1. Favorable awards,
2. Denials,
3. Remands (most frequent reasons for remanded decision—examination, search for service clinicals, etc.), and
4. Other.
E. Number of personal appearances by claimants.
F. Processing time per decision:
1. Time from certification to consideration,
2. Time from consideration to decision rendered, and
3. Time from decision to claimant notification.
Can you provide information concerning BVA man-hours per case?

III. TRAVELING BVA DATA

A. Number of trips per year (How RO's are picked),
B. Number of claims handled, and
C. Data on awards denials, remands, etc.

Also, Jesse, could you give me your own personal views relative to the new policy of keeping an appealed claim at the local VARO until such time as BVA is actually ready to consider the case? Do you have a personal opinion as to the existence of an "unofficial quota" that might govern BVA Boards relative to their awards, denials, etc.? Considering the annual BVA case load, staffing and time spent per case, do you have any personal opinions as to the ability of BVA to accord each claim its proper examination and consideration?

If you have any other thoughts, comments or suggestions, Jesse, please feel free to include them in your response. The House Committee intends to conduct

these oversight hearings some time during the month of May. Therefore, if you could provide me with this information some time during the month of April, it would be deeply appreciated.

Sincerely yours,

JOHN F. HEILMAN,
National Legislative Director.

DISABLED AMERICAN VETERANS,
NATIONAL APPEALS OFFICE,
Washington, D.C., April 11, 1980.

Mr. JOHN F. HEILMAN,
National Legislative Director, Disabled American Veterans, National Service and Legislative Headquarters, Washington, D.C.

DEAR JOHN: Per our telephonic conversation and your letter of March 25, 1980, I am, hereby, attaching the responses received from the Board of Veterans Appeals to your questions, as outlined in the aforementioned letter.

While their response is self-explanatory, there are a few additional comments that I would like to add. With respect to your question on the objective of the appellate program, I personally prefer the guidelines contained in MBVA–1, Change 16, dated February 18, 1977, Subparagraph 1.01. The policy states:

"1.01. Objectives of the appellate program.

"a. *Major.* The major objective is to equitably decide appeals under all laws administered by the VA, with sympathetic understanding and as expeditiously as possible consistent with quality, in order to grant all benefits to which veterans and their dependents are entitled.

"b. *Specific.* Specific objectives are:

"(1) To promulgate quality decisions which are equitable, comprehensive, fully reasoned and self-sustaining.

"(2) To maintain a high level of promptness in deciding appeals consistent with the quality of decisions, expected of an appellate agency of last resort."

John, in my opinion, this policy is in harmony with the intent of the legislation which created the Board of Veterans Appeals. Furthermore, I believe that it is commensurate with the objectives and policies expected of an appellate agency of last resort.

With respect to your question regarding my view on the new policy of keeping the claims folder at the local agency until such time as the Board of Veterans Appeals is actually ready to consider the case, if is my belief that this policy is excellent and provides many positive advantages to the claimant and the Administration. For instance if the case is maintained at the local office until it is ready for disposition, in the interim, all additional adjudication actions that are pending or developing, can be resolved or finalized while the case is still at the Regional Office. Furthermore, by maintaining the case at the Regional Office, it minimizes the management a large number of cases here at the Board of Veterans Appeals and provides for a smoother flow of the work load when the cases are docketed for review. I think this is an excellent policy and it is my hope that is continues to be utilized.

In response to your question regarding the existence of a quota system that governs the Board of Veterans Appeals' decisions, unofficially, and without supporting documentation, in my judgement, the statistical data tends to suggest that the alloweds, remands, and denials are controlled.

John, it is my opinion, the Board of Veterans Appeals' decisions do not reflect a degree of competence that is expected of an appellate agency of last resort. While their decisions are 99.9 percent correct factually, they lack innovated approaches and logic that is necessary in order to make a case self-sustaining and acceptable to large segments of our society.

It appears to me, the Board of Veterans Appeals' present decisions are more concerned with the facts, such as places and dates, as opposed to sound, practical theory that encompass an excellent technical approach, wisdom, equity, and justice, all of which, should conform to acceptable standards in the legal and medical profession.

Finally, due to the influence that the Chairman and Vice-Chairman have on the Board members, an effort should be made to amend Title 38 US Code, Section 4001, to provide Senate confirmation for nominees for the position of Chairman and Vice-Chairman of the Board of Veterans Appeals.

It is my hope that you find this information useful and if there is anything else that I can do to assist you in preparing the organization's position on this matter, please do not hesitate to contact me. I am

Sincerely yours,

JESSE BROWN,
National Appeals Officer.

MEMORANDUM

To: Mr. Jesse Brown, DAV. APRIL 8, 1980.

From: Chairman, Board of Veterans Appeals (01B).

Subject: BVA facts and figures.

1. This refers to your letter from John F. Heilman of March 25, 1980.

2. We are happy to work up some answers for you. Attached are:

Mission and Objective statements for the BVA. These appear in the Board's portion of the fiscal year 1981 OMB Budget Submission.

Responses to specific questions in your letter. We have tried to key our paragraphs to the ones in the letter.

3. Be sure to let us know if there is anything else you need. Glad to help.

SYDNEY J. SHUMAN.

Attachment.

BVA mission.—Equitably decide appeals under all laws administered by the VA and ensure that appellants are afforded due process of law; that they get compassionate, sensitive, responsive, and sympathetic consideration on their appeals; and that they receive all benefits to which they and their dependents are entitled.

Major objectives.—Efficiently process decisions on all appeals before the Board. Reduce average case processing time on appeals (response time) at the BVA from about 122 days to 75 days.

BOARD OF VETERANS APPEALS RESPONSES TO QUESTIONS OF THE DISABLED AMERICAN VETERANS

I. BVA PERSONNEL

A. The BVA has 16 Board Sections. During the peak years of 1972–1973 the BVA had 14 sections. Following the dramatic drop in appeals in 1974, the Board cut back to 13 sections in November 1974. Very shortly, by March 1975, there was a sharp upswing in appeals—due to the recession. The Board reacted by reactivating Section 14 in July 1975. The increases in appeals continued. The Board formed Section 15 in January 1977—and Section 16 in September 1977.

B. Composition of Board Sections. Each section has 3 members. Fifteen sections have 2 attorneys and 1 physician—the other one has 3 attorneys. In addition, each section has 6 or 7 staff attorneys and a section secretary. There also are 2 medical advisers to support all sections with special expertise in fields of psychiatry and surgery.

C. Clerical. As noted above, each Board Section has a secretary. Additional support comes from the Board's Administrative Service. This element—now authorized 139 people—maintains the docket, schedules hearings, and provides correspondence, mail and record activities, secretarial service, and similar duties.

D. BVA Personnel. The Board's personnel strength has changed quite a bit over the past several years—trying to react to the changes in receipts of appeals. Average employment:

Fiscal years:	*Employment level*
1975	281
1976	280
1977	293
1978	333
1979	333
1980 (estimate)	336

E. Time per case. Actual time spent on individual cases varies widely. This depends on many things including whether or not the appellant has a representative, whether or not he or she has a formal hearing, the complexity of the case,

and whether or not these are correspondence or other inquiries to answer. Some guidelines:

Each Board Section has a goal of 40 decisions per week. This gives each member an average of 1 hour per case.

Each attorney—to produce at a level of 100 percent productivity—must do 7 to 8 cases per week. (The BVA had workrate standards since 1958). In fiscal year 1979 the average time value for a decision was 5.4 hours.

II. WORKLOADS

	Fiscal year—					
	1975	1976	1977	1978	1979	1980 (estimate)
A. Appeals received	26,022	29,945	36,721	36,655	34,124	35,000
B. Decisions	25,027	28,482	33,296	35,634	34,972	34,000
Ending docket	4,893	[1] 6,544	11,470	12,491	11,643	12,700

[1] Does not add—transition quarter is not shown.

	Percent
C. Most frequent issues (fiscal year 1979):	
Service connection	39.9
Increased rating	25.5
Other compensation	10.3
Pension	7.5
DIC	5.9
Death pension	1.0
V.R. & E.	2.9
Forfeiture	.2
Waivers	2.7
Hospitalization/OPT	1.5
Loan guaranty	.8
Insurance	.2
Character of discharge	.6
Reconsiderations (all issues)	.5
Miscellaneous	.5

	Allowed	Remanded	Denied	Other
D. BVA dispositions of appeals (rates in percent):				
Fiscal year 1975	14.78	15.93	69.60	1.69
Fiscal year 1976	12.74	16.72	69.96	.58
Fiscal year 1977	12.70	15.62	71.18	.50
Fiscal year 1978	12.50	13.39	73.62	.49
Fiscal year 1979	12.67	13.61	73.10	.62
16 yr	12.96	14.59	71.62	.88

We do not have statistics on the reasons for remands. A check of several Chief Members points out that most remands are for physical examinations and gathering records, in that order. A lesser, but still significant number, are remanded for due process considerations.

The category "other" includes withdrawals and dismissals.

	Travel boards	Central office	Total
E. Number of personal hearings before the board:			
1975	328	540	868
1976	429	712	1,141
1977	466	1,022	1,488
1978	505	947	1,452
1979	484	1,037	1,521
1980 (estimate)	500	1,400	1,900

	Notice of disagreement to receipt at BVA	BVA receipt to BVA decision
F. Appeals processing time (calendar days):		
1975	181	69
1976	186	74
1977	192	102
1978	185	122
1979	187	122

Results of statistical sampling within the BVA currently show the following internal processing times:

From date of receipt at BVA to date assigned to an attorney—68 days.

From date assigned to an attorney to date of dispatch of decision—54 days.

There is no significant delay between the time a decision is signed and its dispatch. Checks from time to time have shown that duplication and out-processing takes about 4–5 workdays.

As mentioned earlier, the number of employee hours required per case varies widely. The BVA has unit time values for several work items. These of course are based on the "average" decision. Included are: 3.0 hours for Board Members, 5.4 hours for the attorney, and 4.9 hours for administrative tasks.

These times do not include the necessary managerial, supervisory, and overhead tasks. All told, the BVA produced 34,972 decisions with an equivalent of 337 employees. Stripping out leave, the Board used about 16.6 hours per decision.

III. TRAVEL BOARD DATA

A. The BVA has increased its Travel Board program for the past several years. Here is a breakout of some key indicators:

[Fiscal years]

	1975	1976	1977	1978	1979	1980 (estimate)
Trips	9	11	11	13	12	13
Stations	31	33	38	39	39	39
Hearings	328	429	461	505	484	500

B. Disposition of Travel Board cases over the years shows a decidedly higher allowance rate than other appeals. (Similar results show up in cases where the appellants had a formal hearing before the Board in Washington.)

	Rates (percent)			
	Allowed	Remanded	Denied	Other
1975	26.5	25.6	46.0	1.8
1976	22.4	18.9	56.9	1.9
1977	22.6	14.0	60.8	2.6
1978	30.7	12.0	54.9	2.2
1979	34.6	12.5	51.6	1.1

TRAVELING SECTIONS—BOARD OF VETERANS APPEALS

Offices	Fiscal years									
	Visited					Planned				
	1976	TQ	1977	1978	1979	1980	1981	1982	1983	1984
Albuquerque	X			X	X	October 1979	April 1981	April 1982	April 1983	April 1984.
Atlanta	X		X	X	X	September 1980	March 1981	March 1982	March 1983	March 1984.
Boise [1]	(2)			X		April 1980		April 1982		April 1984.
Boston		X		X	X	October 1979	October 1980	October 1981	October 1982	October 1983.
Buffalo [1]			(2)							
Cheyenne [1]	X			X		November 1979		November 1981		November 1983.
Chicago	X	X	X		X	March 1980	August 1981	September 1982	September 1983	September 1984.
Cleveland	X	X		X	X	October 1979	October 1980	October 1981	October 1982	October 1983.
Columbia			X	X	X	September 1980	March 1981	March 1982	March 1983	March 1984.
Denver	X			X	X	November 1979	April 1981	April 1982	April 1983	April 1984.
Des Moines [1]	X		X	X		March 1980		do		Do.
Detroit	X	X		X	X	October 1979	October 1980	October 1981	October 1982	October 1983.
Fargo [1]	X		X	(2)		(2)		April 1982		April 1984.
Fort Harrison [1]			X		X		May 1981		May 1983	
Hartford		X		X	X	October 1979	October 1980	October 1981	October 1982	October 1983.
Huston	X		X	X	X	February 1980	February 1981	February 1982	February 1983	February 1984.
Huntington [1]		X		(2)	(2)					
Indianapolis	X		X	X	X	September 1980	September 1981	September 1982	September 1983	September 1984.
Jackson	X		X	X	X	March 1980	March 1981	March 1982	March 1983	March 1984.
Lincoln [1]	X		X		(2)					
Little Rock	X		X		X	May 1980	April 1981	April 1982	April 1983	April 1984.
Los Angeles	X		X	X	X	March 1980	March 1981	March 1982	March 1983	March 1984.
Louisville [1]	X		(2)	X	(2)	September 1980				
Manchester [1]		X		X	X	October 1979	October 1980		October 1982	

Milwaukee	X		X	X	X	March 1980	June 1981	June 1982	June 1983	June 1984.
Montgomery	X		X	X	X	February 1980	March 1981	March 1982	March 1983	March 1984.
Muskogee [1]	X		X	X		May 1980		May 1982		May 1984.
Nashville	X		X	X	X	September 1980	September 1981	September 1982	September 1983	September 1984.
New Orleans	X		X	X	X	March 1980	February 1981	February 1982	February 1983	February 1984.
New York [2]	X		X							
Newark [2]	X		X							
Philadelphia [2]	X		X							
Phoenix	X			(3)	X	April 1980	April 1981	April 1982	April 1983	April 1984.
Pittsburgh	X	X		X	X	October 1979	November 1980	October 1981	October 1982	October 1983.
Portland			X	X	X	April 1980	May 1981	May 1982	May 1983	May 1984.
Providence		X		X	X	October 1979	October 1980	October 1981	October 1982	October 83.
Reno [1]	X		(3)		X		May 1981		May 1983	
Roanoke	X		X	X	(3)	September 1980	September 1981	September 1982	September 1983	September 1984.
Salt Lake City [1]	X			(3)		(3)		November 1981		November 1983.
San Francisco	X		X	X	X	April 1980	February 1981	February 1982	February 1983	February 1984.
San Diego	X		X	X	X	March 1980	April 1981	April 1982	April 1983	April 1984.
San Juan	X		X	X	X	May 1980	May 1981	May 1982	May 1983	May 1984.
Seattle			X	X	X	April 1980	do	do	do	Do.
Sioux Falls [1]	X				X		June 1981		June 1983	
St. Louis	X		X	X	X	May 1980	August 1981	September 1982	September 1983	September 1984.
St. Paul	X		X	X	X	March 1980	June 1981	June 1982	June 1983	June 1984.
St. Petersburg	X		X	X	X	February 1980	March 1981	March 1982	March 1983	March 1984.
Togus [2]		X								
Waco	X		X	X	X	February 1980	February 1981	February 1982	February 1983	February 1984.
White River Junction [2]		X		X		October 1979		October 1981		October 1983.
Wichita [1]	X		X	X		May 1980		May 1982		May 1984.
Winston-Salem	X		X	X	X	September 1980	September 1981	September 1982	September 1983	September 1984.

[1] Visited every 2 yr; all others, 1 yr.
[2] Visit cancelled due to lack of hearings.
[3] Visits to these stations discontinued at this time.

Note: No visits planned to: Baltimore, Honolulu, Juneau, Manila, or Wilmington.

STATEMENT OF STEPHEN L. EDMISTON, ADMINISTRATIVE ASSISTANT, DISABLED AMERICAN VETERANS

Mr. EDMISTON. Mr. Chairman, with me this morning is Mr. Jesse Brown, the supervisor of our national field office here in Washington, D.C.

Chairman MONTGOMERY. OK.

Mr. EDMISTON. Thank you, Mr. Chairman. In order for us to provide the subcommittee with some pertinent data and information regarding the hearings today, we sought the assistance of Mr. Brown in compiling some information which we have attached to our testimony.

I am certain, Mr. Chairman, that we all agree that each and every VA claimant is entitled to a prompt, comprehensive, sympathetic and equitable determination from the Board of Veterans Appeals.

The data enclosed with our testimony reveals the substantial number of field cases received by BVA between 1976 and 1977. We note also that the employment of the Board of Appeals substantially increased from 1977 to 1978 to accommodate this increased workload.

Also of significance, from 1976 to 1977, the number of calendar days elapsing from the time BVA received a case until the time they rendered a decision increased by 28 days. And from 1977 to 1978, the processing time increased by another 20 days, bringing the total number of days a case remained at BVA to 122.

We are concerned, Mr. Chairman, that with the increase in the number of personnel, and particularly the decline in the number of cases received by BVA in 1979, the processing time had not been reduced. We would urge this subcommittee to conduct further investigations in order to determine the factors that resulted in the delays in processing these appeals, particularly in light of the current fiscal constraints.

I wish to clarify that we are not suggesting personnel reductions for BVA because, in our opinion, we feel that they need the personnel that they have now to maintain their current workload.

We must also express, Mr. Chairman, our dismay that a veteran must wait an excess of 10 months from the time he files a notice of disagreement until he receives a decision from the Board of Veterans Appeals.

Recently, with discussions with Mr. Brown and his staff, we are informed that the quality of the decisions being rendered by the Board of Veterans Appeals has been declining in terms of BVA's mandate.

With respect to your oversight functions, Mr. Chairman, we hope that your subcommittee will periodically review some of these decisions and insure their equality. That concludes my statement. Thank you.

Chairman MONTGOMERY. Thank you very much. I am concerned. I hope we on the committee are just not doing lipservice here today, expressing the hope that we can get something done or bring to the attention of the Veterans' Administration.

Staff has mentioned to me that we are getting a lot of superstructure in all departments in the VA, and that they have added areas that I

don't want to mention; but it does take people and cost money in certain jobs that the VA is adding. If you could take these people and put them to handling the claims and helping on the workloads, we could get more done.

In other words, I am saying that they have got some folks in there who are going out looking for problems. We know where we have the problem and that is in trying to speed up processing of these claims and appeals.

Are there any comments on that?

Mr. EDMISTON. Oh, I think we have to agree that we think that the time processing should be reduced in order that these claimants can receive an equitable determination that they understand in a reasonable period of time.

Mr. MAYO. We consider that a very noble prospect and attempt to decrease the time necessary to process a claim and also to improve the quality. We are all well aware of the constraints, but that is not saying that improvement can't be made.

Chairman MONTGOMERY. Do you feel pretty comfortable with yourself—well, I mean the service officers that you have across the country—who start off with the power of attorney? Do you feel like you have as good personnel as you have ever had out there working for the veterans through the veterans organizations, that end up with the veteran's power of attorney to handle his claim?

Mr. EDMISTON. Well, speaking for the DAV, I think we have as fine a group of national service officers as we ever had. We are continually striving to improve their capabilities and their proficiency in assisting this Nation's veterans.

Chairman MONTGOMERY. How many veteran claims did you assist in 1979?

Mr. EDMISTON. At the Board of Veterans Appeals it was approximately 12,000. I don't have the exact figures nationwide that all our national service officers handled.

Chairman MONTGOMERY. Is that an increase over last year, 1978?

Mr. EDMISTON. Yes, it is. Mr. Brown could probably address that for you.

Mr. BROWN. Mr. Chairman, fiscal year, October 1978 to September 1979, we represented approximately 11,700 cases. That is an increase which has been on a continuing spiral upwards for the last 6 or 7 years that would appear, at least in the area that the DAV is active, that there is a continuing demand for our services.

Chairman MONTGOMERY. How about the VFW?

Mr. MAYO. I don't have figures on the number of cases that our service officers as well as our consultants at the Board of Veterans Appeals have handled the last few years with me. I can say that they experienced the upward pressures that the DAV has indicated.

The number of cases that we have that are backlogged are just like those at the BVA itself. As the Chief Claims Consultant indicates, it is difficult to keep up with the demands being placed upon the BVA without adding additional people. That hasn't happened yet. I will submit more on this for the record.

[Information follows:]

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., May 13, 1980.

Hon. G. V. MONTGOMERY,
Chairman, Subcommittee on Compensation, Pension, and Memorial Affairs, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request, during the course of May 7, 1980 hearings with respect to the timeliness and quality of the claims processing function of the Department of Veterans Benefits and Board of Veterans Appeals of the Veterans Administration, that we supply you with information relative to the claims processing activities of our V.F.W. Service Officers and Claims Consultants, the following is supplied for the record:

1. During the period of June 1, 1978, through May 31, 1979, V.F.W. personnel undertook actions on behalf of 298,468 claimants. V.F.W. personnel successfully prosecuted 276,631 of these claims actions, generating annual recoveries, or payment of benefits, in the sum of $745,877,785.

2. With approximately 60 percent of our personnel reporting information for the period of June 30, 1979, through April 30, 1980, 179,332 claims actions have been undertaken, with 157,756 of those being successfully represented. The value of those benefits (annually) is $464,777,612.

It must be stressed that the information reported to you in item No. 2 is incomplete, and that accurate and complete figures can be made available at a later date if required.

Hoping this information aids the Subcommittee in its deliberations on this matter, and with best wishes and kind personal regards, I am

Sincerely,

DONALD H. SCHWAB,
Director, National Legislative Service.

Chairman MONTGOMERY. Well, thank you. The Paralyzed Veterans of America have a statement that they would like to submit and, without objection, these statements will be included.

[Statement follows:]

PREPARED STATEMENT OF GEORGE A. CONN, LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to submit for the record the views of Paralyzed Veterans of America concerning workloads in the Department of Veterans Benefits and in the Board of Veterans Appeals.

Mr. Chairman, PVA is concerned with the continuing problems of processing claims in a timely manner. We wish to thank the Subcommittee for this review of workloads in the Department of Veterans Benefits and the Board of Veterans Appeals, to insure that veterans and their dependents receive the benefits that they are entitled to by laws which have been enacted by Congress.

PVA recognizes the willingness and dedication of the VA and its employees in serving veterans; however, the budgetary limitations imposed on the VA will adversely affect the quality and timeliness of claims processing. Programs in Counseling and Rehabilitation and Veterans Assistance, such as the Vocational-Education Counseling and Campus Veteran Representatives, will be losing the majority of their personnel due to budget reductions. This will mean an increase in the caseload for VA in-house counseling. For the VA to handle this workload, steps are being taken to remove the requirement for counseling in cases of unsatisfactory progress and second change of program.

PVA's Service Officers report that the backlog of claims and delays in adjudication are increasing at VA Regional Offices, taking 90 to 120 days for original Compensation/Pension claims. Frequently, the time for a claim before the Board of Veterans Appeals is in excess of one year, and the VA expects this time to increase over the next two years. A contributing factor for the increase is the loss of an Appeals Section due to the requirement for personnel cuts made necessary by reduced funding levels. Furthermore, due to the loss of experienced personnel through attrition, the time for processing claims at all levels is expected to increase.

Implementing new compensation and pension laws, and the declining use of education benefits does not mean, however, that the workload faced by Regional DVB personnel will decrease. A large volume of claims will require timely and professional adjudication in the future. Two factors affect this prediction. First, World War II veterans are approaching an average age when many will apply for pension and medical benefits. Second, and closely related to the decreasing earning potential of certain veterans, the nation is in a period of unsteady economic growth and faces a recession. Veterans who are presently employed in marginally profitable pursuits will be forced to use VA pension benefits to a greater extent than they have previously. Therefore, aging, illness, and possible higher rates of unemployment will certainly increase demands on the Veterans Administration.

PVA appreciates the VA's efforts to minimize inconveniences to veterans, but we fear that there will be a system-wide deficiency of service to our nation's veterans if the reductions of personnel in the Veterans Administration continue.

Mr. Chairman, I appreciate your attention and cooperation and the Committee's examination of this important matter.

Chairman MONTGOMERY. I would like to thank the witnesses at the table and the other witnesses for being here this morning. It has been very helpful to the subcommittee.

The subcommittee now stands adjourned.

[Whereupon, at 9:47 a.m., the subcommittee was adjourned.]

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